



INDEPENDENT APPOINTMENTS COMMISSION ACT

Statutory Review 2023



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VOLUME 1: THE REPORT

VOLUME 2: THE APPENDICES

APPENDICES

TAB	DOCUMENT
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1	<i>Independent Appointments Commission Act</i> , R.S.N.L., as amended
2	<i>Terms of Reference – Independent Appointments Commission Act</i> (March 2023)
3	News Release, Executive Council (March 16, 2023)
4	Public Advisory, Executive Council (March 28, 2023)
5	News Release, Executive Council (March 10, 2016)
6	News Release, Executive Council (May 25, 2016)
7	Tier 1 Entities (2023)
8	Tier 2 Entities (2023)
9	Independent Appointments Commission <i>Rules of Procedure</i> (Revised June 29, 2020)
10	<i>Public Service Commission Act</i> , R.S.N.L., as amended
11	Written submissions of the Independent Appointments Commission
12	Written submissions of the Public Service Commission
13	Written submissions of the Official Opposition Caucus of the House of Assembly
14	Written submissions of Paul Lane, Independent MHA
15	Written submissions of the Provincial Advisory Council on the Status of Women
16	Written submissions of the Public Utilities Board
17	Written submissions of Provident10
18	Written submissions of the Board of Governors of the College of the North Atlantic
19	Written submissions of the Newfoundland and Labrador Geographical Names Board
20	Written submissions of the Newfoundland and Labrador College of Dietitians

- 21** Written submissions of the Newfoundland and Labrador College of Social Workers
- 22** Written submissions of the Newfoundland and Labrador Pharmacy Board
- 23** Written submissions of First Light
- 24** Written submissions of the Office of Information and Privacy Commissioner
- 25** Written submissions of Thomas Kendell
- 26** Written submissions of David Vardy

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Important Information

(Includes details about the availability of printed and electronic versions of the Statutes.)

[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

SNL2016 CHAPTER I-2.1

**INDEPENDENT APPOINTMENTS
COMMISSION ACT**

Amended:

Schedule Amended:

36/16 s2; 47/16 s2; 2016 c42;
2016 cP-41.001 s31;
2016 cR-15.2 s32; 2016 cS-13.002 s25; 2017 c29; 2018 c3 s4;
2018 cC-5.2 s28; 2018 cI-7.1 s26; 2018 c 38 s11; 2019 c10 s5;
2019 c27 s3; 2019 cO-6.1 s50; 2021 cA-22.1 s45; 2022 cP-30.1 s51

CHAPTER I-2.1

**AN ACT TO ESTABLISH AN INDEPENDENT APPOINTMENTS
COMMISSION AND TO REQUIRE A MERIT-BASED PROCESS FOR
VARIOUS APPOINTMENTS**

(Assented to May 24, 2016)

Analysis

1. Short title

2. Definitions

PART I
PURPOSE AND EFFECT

- [3. Purpose](#)
- [4. Recommendations to be considered](#)
- [5. Effect of requirement to consider recommendation](#)

PART II
INDEPENDENT APPOINTMENTS COMMISSION

- [6. Commission established](#)
- [7. Tenure of office](#)
- [8. Panel](#)
- [9. Recommendations of commission](#)
- [10. Duties and powers of commission](#)
- [11. Support of commission](#)
- [12. Duties of Public Service Commission](#)

PART III
GENERAL

- [13. Report required](#)
- [14. Attempt to influence](#)
- [15. Schedule](#)
- [16. Review](#)
- [17. Protection from liability](#)
- [18. Transitional](#)
- [19. RSNL1990 cP-43 Amdt.](#)
- [20. SNL2006 cR-7.1 Amdt.](#)
- [21. NLR 18/08 Amdt.](#)
- [22. SNL2005 cR-15.1 Amdt.](#)
- [23. NLR 59/03 Amdt.](#)
- [24. RSNL1990 cW-11 Amdt.](#)

[Schedule](#)

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

Short title

- 1.** This Act may be cited as the *Independent Appointments Commission Act* .

[2016 cI-2.1 s1](#)

Definitions

2. In this Act

- (a) "appointment" means the appointment of a person under the authority of a statutory provision or to an entity listed in the Schedule;
- (b) "commission" means the Independent Appointments Commission established in section 6;
- (c) "merit-based process" means a process established by the commission in consultation with the Public Service Commission for the purpose of executing their respective duties under this Act;
- (d) "minister" means the minister
 - (i) responsible for the administration of the Act under the authority of which an appointment may be made, or
 - (ii) to whom an entity is accountable further to its establishment;
- (e) "minister responsible for the administration of this Act" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (f) "Public Service Commission" means the commission appointed under section 5 of the *Public Service Commission Act* .

[2016 cI-2.1 s2](#)

PART I

PURPOSE AND EFFECT

Purpose

3. The purpose of this Act is to

- (a) require a merit-based process for appointments; and
- (b) establish an independent commission to provide recommendations for appointments in accordance with that process.

[2016 cI-2.1 s3](#)

Recommendations to be considered

4. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

[2016 cI-2.1 s4](#)

Effect of requirement to consider recommendation

5. Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4 shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

[2016 cI-2.1 s5](#)

PART II **INDEPENDENT APPOINTMENTS COMMISSION**

Commission established

6. (1) The Independent Appointments Commission is established.

(2) The commission is an independent, non-partisan body whose mandate is to provide non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process.

(3) The commission shall consist of a minimum of 5 members and a maximum of 7 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly.

(4) The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson.

(5) The members of the commission may elect from among their number one person as vice-chairperson who may act in the absence of the chairperson.

(6) A commissioner shall not be remunerated for his or her duties under this Act but a commissioner shall be paid the expenses actually and reasonably incurred by him or her in carrying out those duties in accordance with Treasury Board guidelines.

(7) The commission shall adopt rules of procedure and keep records of its proceedings.

(8) Acts done by the commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the commission, be as valid as if the defect had not existed.

[2016 cI-2.1 s6, 2017 c29 s1](#)

Tenure of office

7. (1) A commissioner shall be appointed for a term of 3 years, and may be reappointed for one additional 3 year term, to be served consecutively.

(2) Where a commissioner is reappointed under subsection (1), he or she shall be reappointed in the manner referred to in subsection 6(3).

(3) A commissioner holds office during good behaviour, but may be removed by the Lieutenant-Governor in Council on resolution of the House of Assembly.

(4) Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council may appoint a person to act

in his or her place, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting.

(5) With the exception of the first 5 members appointed to the commission and the reappointment of those members, if granted, this Act applies to the appointment of the members of the commission.

(6) A commissioner shall, when appointed, take an oath that he or she will be impartial in the carrying out of duties under this Act.

[2016 cI-2.1 s7; 2017 c29 s2](#)

Panel

8. The chairperson of the commission shall appoint a panel of 3 commissioners to review potential appointees for each appointment.

[2016 cI-2.1 s8](#)

Recommendations of commission

9. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

- (a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with this Act; or
- (b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the minister responsible for the administration of this Act shall report on the circumstances of that appointment in the manner required by section 13.

[2016 cI-2.1 s9](#)

Duties and powers of commission

10. (1) The commission shall

- (a) together with the Public Service Commission, administer a merit-based process for appointments; and
- (b) recommend 3 persons for those appointments.

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

[2016 cI-2.1 s10](#)

Support of commission

11. (1) The Public Service Commission shall support and advise the commission in the execution of its duties and the conduct of its business.

(2) In addition to subsection (1), the Public Service Commission shall do those other things that are requested by the commission, where those things are required by the commission in the exercise of its duties under this Act.

[2016 cI-2.1 s11](#)

Duties of Public Service Commission

12. The Public Service Commission shall

- (a) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist;
- (b) solicit and accept applications and expressions of interest for appointments on an ongoing basis;
- (c) create and maintain a list of potential appointees based on paragraphs (a) and (b); and
- (d) further to a merit-based process, provide to the commission a list of all potential appointees, including a list of recommendable potential appointees.

[2016 cI-2.1 s12](#)

PART III **GENERAL**

Report required

13. (1) The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation of this Act under the authority of paragraph 9(2)(b).

(2) Where the House of Assembly is not in session at the time a report is required to be presented under subsection (1), section 19.1 of the *House of Assembly Act* applies as if the report were a report of an officer of the House of Assembly.

[2016 cI-2.1 s13](#)

Attempt to influence

14. (1) A person shall not, directly or indirectly, try to influence improperly the commission or an employee of or assistant to the commission with respect to the recommendation of himself or herself or another person for an appointment under this Act.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

[2016 cI-2.1 s14](#)

Schedule

15. (1) When the House of Assembly is not in session, the Lieutenant-Governor in Council may, by order, amend the Schedule by adding to it but not deleting from it, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.

(2) An order made under subsection (1) is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

[2016 cI-2.1 s15](#)

Review

16. (1) The minister responsible for the administration of this Act shall, every 5 years, perform a review of this Act and consider the areas in which it may be improved and report his or her findings to the Lieutenant-Governor in Council.

(2) Within 3 days of the submission of the report under subsection (1) the minister shall

(a) table the report in the House of Assembly; or

(b) where the House of Assembly is not then sitting, table the report as if it were a report of an officer of the House of Assembly under section 19.1 of the *House of Assembly Act*.

[2016 cI-2.1 s16](#)

Protection from liability

17. A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

[2016 cI-2.1 s17](#)

Transitional

18. Nothing in this Act affects an appointment made before the coming into force of this Act.

[2016 cI-2.1 s18](#)

RSNL1990 cP-43 Amdt.

19. (1) Section 3 of the *Public Service Commission Act* is amended by adding immediately after subsection (1) the following:

(1.1) This Act applies to the appointments under the statutory authority or to entities listed in Schedule C in the manner referred to in sections 20 to 27.

(2) **Subsection 4(1) of the Act is amended by deleting the phrase "This Act does not apply to" and substituting the phrase "Except as provided in sections 20 to 27, this Act does not apply to".**

(3) **The Act is amended by adding immediately after section 18 the following:**

Protection from liability

18.1 A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

(4) The Act is amended by adding immediately after section 19 the following:

Application of certain provisions

20. (1) This section and sections 21 to 27 apply only to

- (a) the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C; and
- (b) to appointments listed in the schedule to the *Independent Appointments Commission Act*.

(2) In the case of a conflict between the other provisions of this Act and this section and sections 21 to 27, this section and sections 21 to 27 apply.

(3) In this section and sections 21 to 27

- (a) "appointment", except as otherwise provided, means the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C;
- (b) "merit-based process" means a process established by the commission for the purpose of executing its duties under sections 21 to 27; and
- (c) "minister", notwithstanding paragraph 2(i), means the minister
 - (i) responsible for the administration of the Act under the authority of which an appointment may be made, or
 - (ii) to whom an entity is accountable further to its establishment.

Appointments to agencies, boards and commissions

21. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

- (a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with sections 21 to 27; or
- (b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17.

Recommendations to be considered

22. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

Effect of requirement to consider recommendation

23. Notwithstanding section 22, the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

Schedule C

24. (1) The Lieutenant-Governor in Council may, by order, amend Schedule C.

(2) An order made under this section is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

Additional powers and duties of commission

25. In addition to the other powers and duties of the commission under this Act, the commission may,

- (a) with respect to appointments,
 - (i) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist,
 - (ii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,
 - (iii) create and maintain a list of potential appointees based on subparagraphs (i) and (ii), and
 - (iv) further to a merit-based process, provide to the Lieutenant-Governor in Council or the minister, as appropriate, recommendations for appointments; and
- (b) with respect to appointments as defined in the *Independent Appointments Commission Act*,
 - (i) support and advise the commission established under the *Independent Appointments Commission Act* in the manner contemplated by that Act,
 - (ii) advertise and otherwise effectively distribute information respecting appointments and receive applications where vacancies exist,
 - (iii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,
 - (iv) create and maintain a list of potential appointees based on subparagraphs (ii) and (iii), and
 - (v) further to a merit-based process, provide to the commission established under the *Independent Appointments Commissions Act* a list of all potential appointees, including a list of recommendable potential appointees.

Current appointments unaffected

26. Nothing in sections 20 to 25 affects an appointment made before the coming into force of this section.

Attempt to influence commission

27. (1) A person shall not, directly or indirectly, try to influence improperly the commission, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person

- (a) to an appointment; or
- (b) to an appointment as defined in the *Independent Appointments Commission Act* .

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

(5) The Act is amended by adding immediately after Schedule B the following:

Schedule C

Entities

Agreement on Internal Trade Dispute Screener

Agreement on Internal Trade Roster of Panelists

Atlantic Lotto Corporation with respect to provincial representatives

C.A. Pippy Park Golf Course Limited with respect to ministerial appointments

Dental Monitoring Committee

Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees

Municipal Assessment Agency with respect to taxpayer representatives

Newfoundland and Labrador Film Development Corporation

Newfoundland and Labrador Historic Commemorations Board

Newfoundland and Labrador Sports Centre Inc. with respect to 6 members and a chairperson appointed by Lieutenant-Governor in Council

Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson

Premier's Youth Advisory Committee

Provincial Advisory Council on Aging and Seniors

Provincial Advisory Council on Mental Health and Addictions

Provincial Advisory Council on the Inclusion of Persons with Disabilities

Provincial Cancer Control Advisory Committee

Provincial Council of the Rural Secretariat

Provincial Wellness Advisory Council

Regional Council of the Rural Secretariat - Avalon Peninsula

Regional Council of the Rural Secretariat - Burin Peninsula

Regional Council of the Rural Secretariat - Clarenville-Bonavista

Regional Council of the Rural Secretariat - Corner Brook-Rocky Harbour

Regional Council of the Rural Secretariat - Gander-New-Wes-Valley

Regional Council of the Rural Secretariat - Grand Falls-Windsor-Baie Verte-Harbour Breton

Regional Council of the Rural Secretariat - Labrador Region

Regional Council of the Rural Secretariat - St. Anthony-Port au Choix Region

Regional Council of the Rural Secretariat - Stephenville-Port aux Basques Region

Torngat Joint Fisheries Board with respect to the members appointed by the provincial minister

Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister

URock Volunteer Award Selection Board

Statutory Appointments

Apprenticeship and Certification Act , subsection 5(1)

Architects Act, 2008 , subsections 6(1) and 15(4) with respect to ministerial appointments

Arts Council Act , section 6

Atlantic Provinces Harness Racing Commission Act , subsection 5(1)

Atlantic Provinces Special Education Authority Act (Nova Scotia), paragraph 5(2)(b)

Buildings Accessibility Act , section 18 with respect to Lieutenant-Governor in Council appointments

Canadian Centre for Occupational Health and Safety Act , section 4 with respect to provincial appointments

Centre for Health Information Act, 2018 , subsections 7(2) and 13(1)

Chartered Professional Accountants and Public Accountants Act , subsections 5(1) and 28(4) with respect to ministerial appointments

Chiropractors Act, 2009 , subsections 5(1) and 21(4)

Credit Union Act, 2009, *Credit Union Regulations, 2009*, subsection 40(1) with respect to ministerial appointments

Criminal Code , section 672.38

Crop Insurance Act , section 3

Dental Act, 2008 , paragraphs 5(2)(c) and 27(6)(b)

Denturists Act, 2005 , subsections 4(1) and 14(1) with respect to ministerial appointments

Dietitians Act , subsections 6(1) and 22(4) with respect to ministerial appointments

Dispensing Opticians Act, 2005 , subsections 5(1) and 13(4) with respect to ministerial appointments

Economic Diversification and Growth Enterprises Act , subsection 6(1)

Embalmers and Funeral Directors Act, 2008 , subsections 4(1) and 16(3) with respect to ministerial appointments

Endangered Species Act , subsection 6(3)

Engineers and Geoscientists Act, 2008 , subsections 5(1) and 21(4) with respect to ministerial appointments

Fatalities Investigations Act , subsection 13.1

Financial Services Appeal Board Act , section 3

Fish Processing Licensing Board Act , section 5

Fishing Industry Collective Bargaining Act , section 19.1

Forestry Act , section 58

Geographical Names Board Act , section 3

Government Money Purchase Pension Plan Act , section 12.1

Government Purchasing Agency Act , subsection 7(1)

Health Professions Act , subsection 9(1) and paragraph 35(4)(c) with respect to ministerial appointments

Health Research Ethics Authority Act, paragraph 3(2)(d)

Hearing Aid Practitioners Act, 2005 , subsections 4(1) and 13(4) with respect to ministerial appointments

Historic Resources Act , section 22

Human Rights Act, 2010 , section 36

Income and Employment Support Act , section 42

Labrador Inuit Land Claims Agreement, Part 12.8.2, 13.10.2

Lands Act , *St. John's Urban Region Agriculture Development Area Regulations* , subsections 3(3) and 7(2)

Law Society Act, 1999 , section 42(4) with respect to ministerial appointments and paragraph 65(2)(b)

Licensed Practical Nurses Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Livestock Insurance Act , section 3

Massage Therapy Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Medical Act, 2011 , paragraph 9(1)(b) and subsection 40(4) with respect to ministerial appointments

Medical Care Insurance Act 1999 , subsection 15(7) with respect to those persons not nominated by the medical or dental associations

Medical Care Insurance Act, 1999 , *Physicians and Fee Regulations* , paragraph 15(1)(b)

Mental Health Care and Treatment Act , section 57

Mineral Act , section 37

Muskrat Falls Project Land Use and Expropriation Act , *Muskrat Falls Project Land Use and Expropriation Regulations* , section 16

Natural Products Marketing Act , section 3

Natural Products Marketing Act, Egg Scheme, 2000 , subsection 4(4)

Natural Products Marketing Act, Milk Scheme, 1998 , subsection 4(6)

Natural Products Marketing Act, Newfoundland and Labrador Chicken Marketing Scheme , subsection 4(1.1)

Occupational Health and Safety Act , section 12

Occupational Therapists Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Optometry Act, 2012 , subsections 9(1) and 27(4) with respect to ministerial appointments

Order of Newfoundland and Labrador Act , paragraph 12(1)(c)

Petroleum and Natural Gas Act, Royalty Regulations, 2003 , paragraph 81(6)(b)

Pharmaceutical Services Act , section 42

Pharmaceutical Services Act, Pharmaceutical Services Regulations , paragraphs 8(2)(d) and (e)

Pharmacy Act, 2012 , subsections 6(1) and 36(4) with respect to ministerial appointments

Physiotherapy Act, 2006 , subsections 5(1) and 16(4) with respect to ministerial appointments

Private Training Institutions Act , subsection 4(3)

Professional Fish Harvesters Act , section 5, subsection 15(1) and section 20

Provincial Court Act, 1991 , paragraphs 16(2)(b), 19(1)(c) and 20(1)(c)

Psychologists Act, 2005 , subsections 4(1) and 15(4) with respect to ministerial appointments

Public Libraries Act , paragraph 3(c)

Public Safety Act , subsection 25(1)

Queen's Counsel Act , subsection 7(2) with respect to appointments not recommended by benchers

Regional Services Board Act, 2012 , subsection 6(2)

Registered Nurses Act, 2008 , paragraph 6(1)(b) and subsection 19(5) with respect to ministerial appointments

Royal Newfoundland Constabulary Act, 1992 , subsection 29(1)

Social Workers Act , subsection 12(1) and paragraph 24(4)(c)

Student Financial Assistance Act, Student Financial Assistance Administration Regulations , paragraphs 18(1)(b) and (e)

Teachers' Collective Bargaining Act , subsection 10(1)

Teachers Training Act , section 3

Urban and Rural Planning Act, 2000 , subsection 41(1)

Veterinary Medical Act, 2004 , subsections 7(1) and 33(1) with respect to ministerial appointments

Wilderness and Ecological Reserves Act , subsection 7(1)

[2016 cI-2.1 s19; 2018 c3 s4; 2018 cC-5.2 s28](#)

SNL2006 cR-7.1 Amdt.

20. (1) Subsections 8(1), (2) and (5) of the *Regional Health Authorities Act* are amended by deleting the word "minister" wherever it occurs and substituting the words "Lieutenant-Governor in Council".

(2) Subsection 14(1) of the Act is repealed and the following substituted:

CEO of a board

14. (1) The Lieutenant-Governor in Council shall appoint, after consultation with the board, a chief executive officer for the authority and shall determine the terms and conditions of employment of that chief executive officer.

[2016 cI-2.1 s20](#)

NLR 18/08 Amdt.

21. Subsection 3(3) of the *Regional Health Authorities Regulations*, Newfoundland and Labrador Regulations 18/08, published under the *Regional Health Authorities Act* is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s21](#)

SNL2005 cR-15.1 Amdt.

22. (1) Subsection 7(2) of the *Rooms Act* is repealed.

(2) Subsection 7(3) of the Act is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

(3) Subsection 10(1) of the Act is repealed and the following substituted:

Chief executive officer

10. (1) The Lieutenant-Governor in Council shall appoint, after consultation with the board, a chief executive officer of the corporation who shall hold office on the terms and conditions established by the Lieutenant-Governor in Council.

(4) Subsection 10(5) of the Act is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s22](#)

NLR 59/03 Amdt.

23. The *Waste Management Regulations, 2003*, Newfoundland and Labrador Regulation 59/03, published under the *Environmental Protection Act*, is amended by deleting the word "minister" in paragraph 3(1)(b) and subsections (2), (5) and (6) and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s23](#)

RSNL1990 cW-11 Amdt.

24. Section 6 of the *Workplace Health, Safety and Compensation Act* is repealed and the following substituted:

Chief executive officer

6. The Lieutenant-Governor in Council shall appoint, after consultation with the board of directors, a chief executive officer of the commission who shall devote the whole of his or her time to the performance of duties under this Act.

[2016 cI-2.1 s24](#)

Schedule

Entities

Marble Mountain Development Corporation Board of Directors

Public Service Pension Plan Corporation with respect to government appointees

Teachers' Pension Plan Corporation with respect to government appointees

Statutory Appointments

Auditor General Act , 2021 , section 4

Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act , section 10, with respect to provincial appointees, nomination for chairperson, designation of vice-chairperson and alternate

Child and Youth Advocate Act , section 4

Citizens' Representative Act , section 3

College Act, 1996, subsection 7(1) and section 10 except subsections 10(2), (3) and (4)

Elections Act, 1991 , section 4

Emergency 911 Act , subsection 12(1) except the directors referred to in paragraphs 12(3)(a) and (b) and subsection 12(4)

Energy Corporation Act , subsections 6(2) and 7(3)

Environmental Protection Act, Waste Management Regulations, 2003 section 3

House of Assembly Act , section 34

Housing Corporation Act , subsections 3(2) and 7(1)

Human Rights Act, 2010, section 22

Hydro Corporation Act, 2007 , subsections 6(2) and 7(3)

Independent Appointments Commission Act , subsection 6(3)

Innovation and Business Investment Corporation Act , paragraph 7(1)(c)

Labour Relations Act , section 6

Legal Aid Act , paragraph 3(2)(a), except those members appointed under subsection 3(3)

Liquor Corporation Act, paragraph 5(1)(c) and subsection 5.1(1)

Lobbyist Registration Act , subsection 23(1)

Memorial University Act , paragraph 22(2)(c) and subsection 48(1)

Oil and Gas Corporation Act , subsections 10(2) and 12(3)

Pippy Park Commission Act , paragraph 4(1)(a) and subsection 12(1)

Provincial Health Authority Act , paragraph 11(2)(a), subsection 11(5) and subsection 17(1)

Public Procurement Act , subsection 15(1)

Public Service Commission Act , subsection 5(3)

Public Utilities Act , subsections 6(2) and 117(1)

Regional Health Service Boards Act, 2012 , subsection 5(1)

Regional Service Boards Act, 2012 , subsection 5(1)

Rooms Act, 2016 , subsection 10(1) and paragraph 12(1)(b)

Royal Newfoundland Constabulary Act, 1992 , subsection 4(1)

Seniors' Advocate Act , section 4

Status of Women Advisory Council Act , subsections 4(1) and 8(1)

Workplace Health, Safety and Compensation Act , subsection 4(1), paragraphs 4(2)(c) and (d), section 6 and subsections 22(1) and (2)

[2016 cI-2.1 Sch](#); [36/16 s2](#); [47/16 s2](#); [2016 c42 s1](#); [2016 cS-13.002 s25](#); [2016 cP-41.001 s31](#); [2016 cR-15.2 s32](#); [2018 cC-5.2 s28](#); [2018 cI-7.1 c26](#); [2018 c38 s11](#); [2019 c10 s5](#); [2019 c27 s3](#); [2019 cO-6.1 s50](#); [2021 cA-22.1 s45](#); [2022 cP-30.1 s51](#)

Terms of Reference – Independent Appointments Commission Act Review

Consultant

The consultant reviewing the legislation is David Conway, who shall complete the review in accordance with these terms of reference.

Mandate

The review of the Act will be comprehensive and established with the goal of identifying improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes which support its administration. The review will incorporate, but not be limited to, an examination of potential improvements in the following areas:

- The processes and timelines associated with the generation of recommendations through the merit-based appointment process. Vacant positions on agencies, boards and commissions must be filled in a timely manner;
- Ways to maximize the diversity of candidates identified as qualified and recommendable for appointment, including but not limited to Indigenous candidates;
- Ways to maximize regional representation from all parts of the province;
- Ways to encourage more citizens to seek appointment and to ensure that lists of qualified and recommendable candidates are continually refreshed; and
- To ensure that the positions and appointments which are part of the merit-based appointment process are included or excluded as appropriate.

Methodology

The consultant may receive written submissions and/or conduct consultations with interested parties, including but not limited to residents, media and public bodies.

Public consultation sessions may be scheduled at the discretion of the consultant. In consultation with the Public Engagement and Planning Division consideration will be given to the methods of consultation that promote the engagement of interested parties, regardless of regional location (e.g., online), and are cost-effective and safe.

The consultant will have access to existing data and documentation utilized by the Independent Appointments Commission and the Public Service Commission in the conduct of the review.

Timeline

The consultant shall terminate his work and deliver his final report to the Minister Responsible for the Public Service Commission on, or before, May 31, 2023.

Provincial Government Announces Statutory Review of the Independent Appointments Commission

Provincial Government Announces Statutory Review of the Independent Appointments Commission

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March 16, 2023

Today, the Government of Newfoundland and Labrador announced a statutory review of the Independent Appointments Commission as per the requirements of the Independent Appointments Commission Act.

Mr. David Conway has been appointed to lead the review, which will identify improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation. The review will explore the timeliness of recommendations, encouraging more citizens to seek appointment, and maximizing the diversity of qualified candidates and regional representation.

The terms of reference for the review are noted in the backgrounder below. Mr. Conway will deliver his final report to the Minister Responsible for the Public Service Commission by May 31, 2023.

Governed by the [Independent Appointments Commission Act](#), which received royal assent in 2016, the Independent Appointments Commission is a seven person, non-partisan commission appointed through a resolution of the House of Assembly. The commission provides merit-based recommendations to approximately 30 Tier One entities. These agencies, boards and commissions deliver important services including health care, education and the management of our province's natural resources.

Quote

“The Independent Appointments Commission provides an important service to the province, ensuring a fair and merit-based process is followed when appointing members to serve on our agencies, boards and commissions. I look forward to Mr. Conway’s review and recommendations.”

Honourable Siobhan Coady

Deputy Premier and Minister Responsible for the Public Service Commission

Learn more

[Independent Appointments Commission Act](#)

[The Independent Appointments Commission](#)

[Tier One Entities](#)

BACKGROUNDER

Biography of David Conway

David Conway graduated from McGill University with a B.A. in Economics (1996) and an LL.B. from the University of New Brunswick (1999). He was then called to the Ontario bar before being called to the bar in Newfoundland and Labrador.

Mr. Conway worked exclusively in the fields of labour law and administrative law for fifteen years before becoming the chairperson of the Newfoundland and Labrador Labour Relations Board from 2017 until 2022. Mr. Conway now acts as a neutral arbitrator, adjudicator and independent legal counsel. He is on the roster of arbitrators for Newfoundland and Labrador established by the Labour Management Arbitration Committee.

Mr. Conway has experience in numerous types of proceedings, including labour arbitrations, judicial reviews, workers' compensations hearings, employment insurance hearings, human rights proceedings, collective agreement negotiations and statutory reviews. He has also appeared as counsel at various levels of court including the Supreme Court of Canada. Mr. Conway has taught labour relations at the graduate level at Memorial University, is a member of the Law Society of Newfoundland and Labrador's Disciplinary Panel, and instructs at the Bar Admission Course. He is a past co-chair of the Newfoundland and Labrador Labour Management Arbitration Committee and is a member of the Canadian Bar Association's National Labour and Employment Law section.

BACKGROUNDER

Terms of Reference – Independent Appointments Commission Act Review

Consultant

The consultant reviewing the legislation is David Conway, who shall complete the review in accordance with these terms of reference.

Mandate

The review of the Act will be comprehensive and established with the goal of identifying improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes which support its administration. The review will incorporate, but not be limited to, an examination of potential improvements in the following areas:

- The processes and timelines associated with the generation of recommendations through the merit-based appointment process. Vacant positions on agencies, boards and commissions must be filled in a timely manner;
- Ways to maximize the diversity of candidates identified as qualified and recommendable for appointment, including but not limited to Indigenous candidates;
- Ways to maximize regional representation from all parts of the province;
- Ways to encourage more citizens to seek appointment and to ensure that lists of qualified and recommendable candidates are continually refreshed; and
- To ensure that the positions and appointments which are part of the merit-based appointment process are included or excluded as appropriate.

Methodology

The consultant may receive written submissions and/or conduct consultations with interested parties, including but not limited to residents, media and public bodies.

Public consultation sessions may be scheduled at the discretion of the consultant. In consultation with the Public Engagement and Planning Division consideration will be given to the methods of consultation that promote the engagement of interested parties, regardless of regional location (e.g., online), and are cost-effective and safe.

The consultant will have access to existing data and documentation utilized by the Independent Appointments Commission and the Public Service Commission in the conduct of the review.

Timeline

The consultant shall terminate his work and deliver his final report to the Minister Responsible for the Public Service Commission on, or before, May 31, 2023.

2023 03 16

2:10 pm

News Releases Executive Council

Public Advisory: Residents Invited to Contribute to the Statutory Review of the Independent Appointments Commission Act

Public Advisory: Residents Invited to Contribute to the Statutory Review of the Independent Appointments Commission Act

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- **Executive Council**

March 28, 2023

Interested parties and individuals are invited to contribute to the statutory review of the [Independent Appointments Commission Act](#).

Here's how you can get involved:

- Provide written comments or written submissions to IACreview@gov.nl.ca by 4:00 p.m. on Wednesday, May 17, 2023.
- Arrange a time to speak with Mr. David Conway, the review consultant, by calling 709-729-5800 or emailing IACreview@gov.nl.ca.
- Participate in the online public consultation meetings or observe the meetings scheduled for the week of May 8-12, 2023 by emailing IACreview@gov.nl.ca or calling 709-729-5800 by 4:00 p.m. on Friday, May 5, 2023.

The review of the Independent Appointments Commission Act will be comprehensive and identify improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes that support its administration.

The review will also look at ways to maximize the diversity of candidates identified as qualified and recommendable for appointment, including but not limited to Indigenous candidates, and ways to maximize regional representation from all parts of the province.

The final report will be submitted to the Minister Responsible for the Public Service Commission outlining the results of the review and its recommendations on or before May 31, 2023. The report will also be made publicly available.

Please note that the final report will state the names of individuals or parties who made comments and submissions in writing and in-person at the public consultation meetings; or were consulted as part of the review process. Comments and submissions may be included as part of the written report of the review with identifying information such as name and organization.

News Releases

Executive Council

March 10, 2016

Creating Public Confidence in Government Operations



Premier Ball Introduces Inaugural Legislation to Modernize Appointment Process

Today in the House of Assembly, the Honourable Dwight Ball, Premier of Newfoundland and Labrador, will introduce his government's inaugural legislation - an act to establish an Independent Appointments Commission and to require a merit-based process for various appointments. There will also be amendments made to the *Public Service Commission Act* to detail their work to support the Independent Appointments Commission.

"By taking this action my government will bring greater accountability and transparency to the appointment process. We are modernizing how appointments are made, and clearing a path for the most qualified people to apply for a position, be considered and selected on their merits. Once in place, Newfoundland and Labrador will be the only province in the country with a legislated merit-based appointment process."

- The Honourable Dwight Ball, Premier of Newfoundland and Labrador

The new legislation will result in the creation of a five-person, non-partisan Independent Appointments Commission. This commission will:

- Observe the highest standards of impartiality, integrity and objectivity in their consideration of all potential candidates;
- Assess candidates for chief executive officers or equivalent positions within approximately 30 tier one agencies, boards and commissions, as well as members of the associated boards;
- Recommend three individuals per position for Cabinet's approval; and
- Complete an annual activity report in accordance with the Transparency and Accountability Act.

In addition to the establishment of the Independent Appointments Commission, a new merit-based process will also apply to appointments for all remaining 128 agencies, boards and commissions. In those cases, the Public Service Commission will manage a process to ensure these appointments are also based on merit. A skill and criteria profile will be developed for every organization. The Public Service Commission will make recommendations to the relevant minister for approval in these situations.

"This is fair and fully transparent legislation which supports the Premier's vision of an appointment process that instills confidence in the operations of government - a process that will assure Newfoundlanders and Labradorians that those appointed are the most qualified people for the job."

- The Honourable Cathy Bennett, Minister responsible for the Public Service Commission

A public-facing website will be developed to provide information on membership, terms and vacancies, and allow for online application for vacant positions. Information and appointments will be updated on an ongoing basis.

In Newfoundland and Labrador, agencies, boards and commissions, including regional health authorities, and Nalcor make up approximately 43 per cent of total government expenditures and 75 per cent of total public sector employment. There are more than 1,200 positions and based on previous years, it is expected that there will be 250 appointments annually.

[Agencies, boards and commissions included in Bill One - An Act to Establish a Merit-Based Appointment Process and Independent Appointments.](#)

QUICK FACTS

- Premier Ball today will introduce his government's inaugural legislation - an act to establish an Independent Appointments Commission and to require a merit-based process for various appointments.
- The Provincial Government is implementing a consistent, inclusive process that ensures that the right people are engaged in making decisions that impact the people of the province.

- The Independent Appointments Commission will consist of five people who are non-partisan and appointed through a resolution in the House of Assembly.
- Members of the Independent Appointments Commission will not be entitled to remuneration. They will be compensated for incurred expenses in the performance of their duties.
- Through this modernized appointments process, the Provincial Government will encourage diversity and regional representation.

- 30 -

Media contacts:

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2016 03 10

1:15 p.m.

News Releases

Executive Council

May 25, 2016

Delivering Open and Transparent Government



Government Proposes Members of the Independent Appointments Commission in the House of Assembly

The Honourable Andrew Parsons, Government House Leader, introduced a resolution today in the House of Assembly proposing the names of the individuals who will form the inaugural Independent Appointments Commission. This follows on the passing of Bill 1, which supports the creation of a merit-based appointment process for agencies, boards, and commissions for the first time in Newfoundland and Labrador.

"The creation of a merit-based appointment process ensures that appointments are made in an open, transparent and accountable manner and serve the best interests of our province. It allows for one of the most open, non-partisan appointment processes in Canada. To support its implementation, five highly qualified and respected individuals have been proposed to the House of Assembly for a debate and vote among members."

- Honourable Dwight Ball, Premier of Newfoundland and Labrador

The proposed members of the inaugural Independent Appointments Commission are:

- Hon. Clyde K. Wells, B.A., LL.B, LL.D (Hon), QC - Chair

- M. Zita Cobb
- Shannie Duff
- Philip R. Earle
- Derek Young

These individuals will serve a three-year term. Their biographies are included in the Backgrounder.

"The candidates have a variety of backgrounds, as well as significant industry, social and economic experiences. This will undoubtedly benefit government and the people of the province as we ensure the most qualified individuals fill available positions within agencies, boards and commissions. I would like to thank each of them for volunteering their time to a process that will considerably improve how appointments are made in our province."

- Premier Ball

To support increased openness and transparency, a website will be created that includes terms and vacancies of available opportunities and allow people to apply online. Appointments will also be published on the new website and in a report submitted annually to the House of Assembly. In addition, an order-in-council will be available online for appointments made through this process by Cabinet.

The merit based appointment process will include the Independent Appointments Commission recommending three individuals to Cabinet for vacancies that arise at approximately 30 tier one government organizations, which are larger organizations with greater decision making responsibilities and budgets. For 128 tier two organizations, the Public Service Commission will review applications and provide a list to ministers of individuals qualified for appointment.

QUICK FACTS

- Premier Ball introduced a resolution proposing individuals who will make-up the Independent Appointments Commission today in the House of Assembly.
- The five people proposed to make-up the Independent Appointments Commission are Clyde K. Wells, M. Zita Cobb, Shannie Duff, Philip R. Earle and Derek Young. Mr. Wells will serve as chair.
- For the first time, Newfoundland and Labrador will have a merit-based appointment process in place for agencies, boards and commissions.
- All Newfoundlanders and Labradorians will now have the opportunity to apply for a position on an agency, board or commission and to be considered on their skills, qualifications and experiences.
- The Public Service Commission will work with the Women's Policy Office to develop targeted initiatives to address any identified representation needs.

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BACKGROUNDER
Proposed Members of the Independent Appointments Commission

Hon. Clyde K. Wells, B.A., LL.B, LL.D (Hon), QC

Clyde Wells has had an extensive legal and political career. A graduate of Dalhousie Law School, Mr. Wells built a thriving legal practice before serving as the fifth Premier of Newfoundland and Labrador from 1989-1996. Mr. Wells has served as a justice of the Supreme Court of Newfoundland and Labrador (Court of Appeal) and was appointed Chief Justice of the province in 1999, a position he held until 2009. Mr. Wells remained as a supernumerary justice of the appellate court until his full retirement from the bench in November 2012. Mr. Wells now practices as Counsel with Cox & Palmer, where he is also Chairman of the Board of Directors.

Mr. Wells will serve as chair of the Independent Appointments Commission.

M. Zita Cobb

Zita Cobb is Chief Executive Officer and founder of the Shorefast Foundation, which uses a social entrepreneurship model to contribute to cultural and economic resiliency for Fogo Island. Its most significant projects to date are the Fogo Island Inn, Fogo Island Arts, Fogo Island Shop and Fogo Island Fish. Ms. Cobb has considerable experience in the telecommunications industry and has received Honourary Doctorates from Memorial University, Carleton University and McGill University, as well as a Honourary Fellowship from the Royal Architectural Institute of Canada and the Dr. Gill Chin Lim Global Award.

Shannie Duff

Shannie Duff served on St. John's City Council from 1997 to 2013 where she served as Mayor, Deputy Mayor and Councillor-at-Large. She also briefly served as a member of the House of Assembly. Throughout her municipal career, she has been a strong advocate of developing strong and sustainable communities. Ms. Duff has been a champion for affordable housing, inner city revitalization, heritage conservation and environmental sustainability. Ms. Duff has been inducted into the Order of Canada and Order of Newfoundland and Labrador and received a

honourary doctor of laws degree from Memorial University. She has also received the Anne MacLean Award of Excellence by the Canadian Federation of Municipalities

Philip R. Earle

Philip Earle is a business partner and Chief Executive Officer of Air Labrador Limited, an Inuit-owned company. While growing the company, Mr. Earle has placed considerable focus on building human resource capacity by promoting Labrador Inuit to key positions. Mr. Earle's background is steeped in rural and indigenous communities where he has built strong knowledge and experience through working with aboriginal leaders and understanding their culture and values. Mr. Earle also serves on the Board of Directors of the Air Transport Association of Canada and Destination Labrador.

Derek Young

Derek Young was the Ford franchise dealer for 31 years operating four locations on the province's west coast and in southern Labrador. Mr. Young was the first chairman of the Ford Motor Company National Roundtable Board consisting of Ford Motor Company and Ford dealer representatives and also served two years as a Director on the Federation of Automobile Dealers Association of Canada and two years as President of the Newfoundland and Labrador Dealers Association. Mr. Young received MacLean's magazine's Newfoundland and Labrador Dealer of Excellence Award in 1996. He also served as chair of the Western Memorial Regional Hospital Foundation for six years.

2016 05 25

4:00 p.m.



Independent Appointments Commission

Tier 1

- [Board of Commissioners of Public Utilities](#)
- [Board of Directors -The Rooms Corporation of Newfoundland and Labrador Inc.](#)
- [Board of Regents of the Memorial University of Newfoundland and Labrador](#)
- [C.A. Pippy Park Commission](#)
- [Canada Newfoundland and Labrador Offshore Petroleum Board](#)
- [College of the North Atlantic – Board of Governors](#)
- [Commissioner of Lobbyists](#)
- [Consumer Advocate](#)
- [Human Rights Commission](#)
- [Independent Appointments Commission](#)
- [Innovation and Business Investment Corporation](#)
- [Labour Relations Board](#)
- [Marble Mountain Development Corporation – Board of Directors](#)
- [Multi-Materials Stewardship Board](#)
- [Nalcor Energy Board of Directors](#)
- [Newfoundland and Labrador Hydro-Electric Corporation Board of Directors](#)
- [Newfoundland and Labrador Housing Corporation](#)
- [Newfoundland and Labrador Legal Aid Commission](#)
- [Newfoundland and Labrador Liquor Corporation](#)
- [Oil and Gas Corporation of Newfoundland and Labrador](#)
- [Provincial Advisory Council on the Status of Women – Newfoundland and Labrador](#)
- [Provident¹⁰ Board of Directors](#)
- [Provincial Health Authority Board of Trustees](#)
- [Teachers' Pension Plan Corporation Board of Directors](#)
- [Workplace Health, Safety and Compensation Commission Review Division](#)
- [Workplace NL \(Workplace Health, Safety and Compensation Commission Board of Directors\)](#)



Independent Appointments Commission

Tier 2

- [Adjudicators for Appeal Hearings \(all regions\)](#)
- [Accessibility Standards Advisory Board](#)
- [Appeal Board of the Professional Fish Harvesters Certification Board](#)
- [Architects Disciplinary Panel](#)
- [Architects Licensing Board](#)
- [Atlantic Lottery Corporation](#)
- [Atlantic Provinces Harness Racing Commission](#)
- [Atlantic Provinces Special Education Authority](#)
- [Audit Committee](#)
- [Board of Directors of the Credit Union Deposit Guarantee Corporation](#)
- [Board of Directors of the Engineers and Geoscientists Newfoundland and Labrador](#)
- [Buildings Accessibility Advisory Board](#)
- [Buildings Accessibility Appeal Tribunal](#)
- [C.A. Pippy Park Golf Course Limited – Board of Directors](#)
- [Canada-Newfoundland and Labrador Off-Shore Occupational Health and Safety Advisory Council](#)
- [Canadian Center for Occupational Health and Safety](#)
- [Canadian Free Trade Agreement \(CFTA\) Roster for Appellate Panels](#)
- [Canadian Free Trade Agreement \(CFTA\) Roster for Panels and Compliance Panels](#)
- [Chartered Professional Accountants Disciplinary Panel](#)
- [Chartered Professionals Accountants Board of NL](#)
- [Chicken Farmers of Newfoundland and Labrador](#)
- [Child Death Review Committee](#)
- [College of Licensed Practical Nurses of Newfoundland and Labrador](#)
- [College of Licensed Practical Nurses of Newfoundland and Labrador -Disciplinary Panel](#)
- [Complaints Review Committee](#)
- [Council of the College of Physicians and Surgeons of Newfoundland and Labrador](#)
- [Council of the College of Physicians and Surgeons of Newfoundland and Labrador - Disciplinary Panel](#)
- [Council of the College of Registered Nurses of Newfoundland and Labrador](#)
- [College of Registered Nurses of Newfoundland and Labrador Disciplinary Panel](#)
- [Council of Newfoundland and Labrador College of Optometrists](#)
- [Council of the College of Physiotherapists of Newfoundland and Labrador](#)

- [Criminal Code Mental Disorder Review Board](#)
- [Dairy Farmers of Newfoundland and Labrador](#)
- [Disciplinary Panel of the Council of the College of Physiotherapists of Newfoundland and Labrador](#)
- [Disciplinary Panel of the Denturist Board](#)
- [Disciplinary Panel of the Dispensing Opticians Board](#)
- [Disciplinary Panel of the Newfoundland and Labrador Association of Social Workers](#)
- [Disciplinary Panel of the Newfoundland and Labrador Chiropractic Board](#)
- [Disciplinary Panel of the Newfoundland and Labrador Dental Board](#)
- [Dispensing Opticians Board](#)
- [EDGE Evaluation Board](#)
- [Egg Farmers of Newfoundland and Labrador](#)
- [Embalmers and Funeral Directors Board](#)
- [Embalmers and Funeral Directors Disciplinary Panel](#)
- [Engineers and Geoscientists Disciplinary Panel](#)
- [Farm Industry Review Board](#)
- [Financial Services Appeal Board](#)
- [Fish Processing Licensing Board](#)
- [Fisheries Advisory Council](#)
- [Governing Board of the Newfoundland and Labrador College of Veterinarians](#)
- [Government Money Purchase Pensions Plan Committee](#)
- [Health Research Ethics Authority](#)
- [Hearing Aid Practitioners Board](#)
- [Hearing Aid Practitioners Board – Disciplinary Panel](#)
- [Heritage Foundation of Newfoundland and Labrador](#)
- [Human Rights Commission Panel of Adjudicators](#)
- [Income and Employment Support Appeal Board](#)
- [Internal Trade Agreement \(Dispute Screener\)](#)
- [Interprovincial Lottery Corporation Board of Directors](#)
- [Judicial Complaints Panel](#)
- [Judicial Council of the Provincial Court of Newfoundland and Labrador](#)
- [Law Foundation of Newfoundland and Labrador](#)
- [Law Society Disciplinary Panel](#)
- [Legal Appointments Board](#)
- [Livestock Owners Compensation Board](#)
- [Medical Consultants' Committee](#)
- [Mental Health Care and Treatment Review Board](#)
- [Mineral Rights Adjudication Board](#)
- [Mistaken Point World Heritage Advisory Council](#)
- [Municipal Assessment Agency – Board of Directors](#)
- [Muskrat Falls Project Land Use and Expropriation – Arbitration Panel](#)
- [Newfoundland and Labrador Arts Council](#)
- [Newfoundland and Labrador Association of Social Workers Board of Directors](#)
- [Newfoundland and Labrador Chiropractic Board](#)

- [Newfoundland and Labrador College of Dietitians Board](#)
- [Newfoundland and Labrador College of Dietitians – Disciplinary Panel](#)
- [Newfoundland and Labrador College of Veterinarians – Disciplinary Panel](#)
- [Newfoundland and Labrador Council of Health Professionals](#)
- [Newfoundland and Labrador Council of Health Professionals – Disciplinary Panel](#)
- [Newfoundland and Labrador Crop Insurance Agency](#)
- [Newfoundland and Labrador Dental Board](#)
- [Newfoundland and Labrador Denturists Board](#)
- [Newfoundland and Labrador Denturists Board – Disciplinary Panel](#)
- [Newfoundland and Labrador Film Development Corporation](#)
- [Newfoundland and Labrador Geographical Names Board](#)
- [Newfoundland and Labrador Greenhouse Gas Reduction Fund Advisory Council](#)
- [Newfoundland and Labrador Massage Therapists Board](#)
- [Newfoundland and Labrador Massage Therapists Disciplinary Panel](#)
- [Newfoundland and Labrador Occupational Therapy Board](#)
- [Newfoundland and Labrador Occupational Therapy Disciplinary Panel](#)
- [Newfoundland and Labrador Optometric – Disciplinary Panel](#)
- [Newfoundland and Labrador Pharmacy Board](#)
- [Newfoundland and Labrador Pharmacy Board – Disciplinary Board](#)
- [Newfoundland and Labrador Psychology Board](#)
- [Newfoundland and Labrador Psychology Board – Disciplinary Panel](#)
- [Newfoundland and Labrador Sports Centre – Board of Directors](#)
- [Newfoundland and Labrador Tourism Board](#)
- [Occupational Health and Safety Advisory Council](#)
- [Oil and Gas Industry Development Council](#)
- [Order of Newfoundland and Labrador Advisory Council](#)
- [Patient Safety and Quality Advisory Committee](#)
- [Pharmaceutical Audit Appeal Board](#)
- [Pharmaceutical Audit Review Committee](#)
- [Premier's Youth Council](#)
- [Prescription Monitoring Program Advisory Committee](#)
- [Private Training Corporation](#)
- [Professional Fish Harvesters Certification Board](#)
- [Professional Fish Harvesters Disciplinary Board](#)
- [Provincial Advisory Council on Aging and Seniors](#)
- [Provincial Advisory Council on Mental Health and Addictions](#)
- [Provincial Apprenticeship and Certification Board](#)
- [Provincial Information and Library Resources Board](#)
- [Provincial Wellness Advisory Council](#)
- [Public Safety Appeal Board](#)
- [Reference Price Committee](#)
- [Review Panel of the Medical Care Insurance Act](#)
- [Roster of Panelists for the Agreement on Internal Trade](#)
- [Royal Newfoundland Constabulary Public Complaints Commission Panel of Adjudicators](#)

- [School Board Committee](#)
- [Selection Board for the URock Volunteer Award](#)
- [Species Status Advisory Committee](#)
- St. John's Land Development Advisory Authority
- [St. John's Urban Region Agriculture Appeal Board](#)
- [Student Financial Assistance Appeals Board](#)
- [Teacher Allocation Review Committee](#)
- [Teachers' Certification Review Panel](#)
- [Torngat Joint Fisheries Board](#)
- [Torngat Wildlife and Plants Co-Management Board](#)
- [Wilderness and Ecological Reserves Advisory Council](#)

INDEPENDENT APPOINTMENTS COMMISSION

RULES OF PROCEDURE

(Revised as at June 29, 2020)

1 Rules and definitions

1.1 These Rules are the rules adopted by the IAC pursuant to the requirement set out in subsection 6(7) of the Act.

1.2 The words defined in section 2 of the Act shall, whenever used in these Rules, have the meaning ascribed to them in section 2 of the Act.

1.3 In addition to the meanings referred to in Rule 1.2 above, in these Rules:

- (a) “Act” means the *Independent Appointments Commission Act, SNL 2016, c. I-2.1*;
- (b) “Administrator” means the person contracted by the IAC to provide such office administrative services as the IAC needs from time to time, to perform the duties ascribed to the Administrator by these Rules and to discharge such other duties as may from time to time be assigned by the IAC or the Chairperson;
- (c) “Appointing Authority” means the Lieutenant-Governor in Council, a minister or other person or agency authorized to make an appointment under the authority of a statutory provision, or to an entity listed in the schedule to the Act;
- (d) “Chairperson” means the person appointed pursuant to subsection 6(4) to be chairperson of the commission and includes the vice-chairperson elected pursuant to subsection 6(5) whenever the Vice-Chairperson is acting in the absence of the Chairperson;
- (e) “Commissioner” means any one of the members of the IAC appointed pursuant to subsection 6(3);
- (f) “IAC” means the commission defined in section 2;
- (g) “PSC” means the Public Service Commission defined in section 2;
- (h) “Review Panel” means the panel of three Commissioners designated by the Chairperson, pursuant to section 8, to consider any specific request or requests for recommendations for appointment;
- (i) “Rules” means the rules referred to in Rule 1.1 above;

(j) “section” and “subsection” followed by a numerical designation means the specific numerically designated section or subsection, as the case may be, of the Act;

(k) “Vice-Chairperson” means the person elected by the IAC pursuant to subsection 6(5);

2 Structure, staff and means of operating

2.1 The IAC will make such recommendations, as may be requested of it by Appointing Authorities who have forwarded written requests through the PSC or directly to the IAC, for the purpose of filling vacancies in positions existing in entities and statutory appointments listed in the Schedule to the Act, as that Schedule may be amended from time to time or added to pursuant to subsection 15(1).

2.2 The primary means by which the IAC will carry out the activities necessary in the discharge of its responsibilities will be through the services and activities provided by the PSC pursuant to the provisions of section 12, through such other things and advice as the IAC may request the PSC to provide, and such other actions as the IAC may itself initiate.

2.3 The PSC will maintain a record listing all of the positions for which the IAC has responsibility for recommending potential appointees, showing the Appointing Authority, the name of the present holder, his or her residential location, the date of appointment to the position, and the date of expiration of the current term and, a reasonable time before the expiration date of the term, will draw to the attention of the Appointing Authority that pending expiration.

2.4 The IAC will, with the assistance of the PSC, arrange for the engagement by the IAC, or re-engagement or replacement as circumstances may require, on a part time contractual basis or on such terms and conditions as shall be agreed upon by the PSC and IAC, of the person selected by the IAC to provide its administrative and office needs, to be designated Administrator and be answerable only to the IAC through the Chairperson.

2.5 The primary duties of the Administrator shall include:

(a) the provision of all secretarial and administrative services as the IAC may desire to have provided on a basis confidential to the IAC;

(b) being the liaison between the IAC, including individual Commissioners, and the PSC to facilitate, in the manner requested by the PSC, provision by it of the services, assistance, information processing and advice provided for in the

Act, and to facilitate, in the manner directed by the IAC or the Chairperson, interaction between the PSC and the IAC, the Chairperson or a Commissioner;

(c) organizing and putting in place such services as may be necessary to ensure the protection of the privacy of personal information made available to Commissioners in the course of the discharge of their duties;

(d) providing such administrative assistance, including travel arrangements and claims for the same, meeting arrangements, electronic and telephone conferencing arrangements, and any other assistance any Commissioner may reasonably request for the purpose of the discharge of duties as a Commissioner;

(e) arranging through the PSC for access to such accommodation, office supplies and services and all other matters and things necessary for the performance of their duties and responsibilities by the IAC and each Commissioner;

(f) preparing, in the manner directed by the Chairperson, and forwarding to the Appointing Authority the formal decision of the IAC respecting its recommendations of the persons to be considered for appointment;

(g) preparing, under the direction of the Chairperson, the formal decision of the IAC in respect of all requests for recommendations, any and all reports required by law; and

(h) doing all such other things and providing all such assistance as the Chairperson may direct as being necessary or beneficial in the course of the IAC and the Commissioners carrying out their duties under the Act.

3 Meetings

3.1 The Commissioners will, for the purpose of discharging their duties:

(a) schedule an in-person meeting in the City of St. John's on the third Wednesday of June each year for such period of time as the Chairperson determines to be necessary in the circumstances;

(b) meet in person at such other times, if any, in such places for such periods of time as the Chairperson may designate;

(c) hold such telephone or video conference meetings at such times as the Chairperson may from time to time designate;

- (d) schedule such meetings of Review Panels as the Chairperson or the members of the Review Panel concerned consider to be necessary; and
- (e) for any reason whatsoever, defer or reschedule any such meeting.

3.2 No decision shall be recorded as a decision of the IAC at any meeting held pursuant to rule 3.1 at which less than a majority of Commissioners then in office are participating in person or by electronic means.

3.3 The PSC official providing information, advice and services being provided in respect of the recommendations under consideration and the Administrator shall be present at all meetings of the IAC unless the majority of Commissioners present determine that the either one or both should be excused for a portion or all of the meeting.

3.4 The Administrator shall record the minutes of all meetings of the IAC whether held in person or by electronic means or a combination of both, provided that at any meeting in respect of which the Administrator is unable to participate or from which the Administrator is excused the Vice-Chairperson shall record the minutes.

3.5 The decision that is supported by the majority of the Commissioners participating in person or electronically shall constitute the decision of the IAC.

4 Operational needs, accounting and accountability

4.1 The IAC will not maintain its own accounting and expenditure control systems and all cost and accounting for goods and services used or consumed by the IAC will be maintained and provided for in the accounts of the PSC.

4.2 All goods, services, office supplies, travel expense allocations and all other matters or things reasonably necessary for the performance of their duties and responsibilities by the IAC or a Commissioner will be arranged by the Administrator, or in the absence of the Administrator by the Chairperson and obtained from the PSC.

4.3 All reports required to be filed by the Act, or any other act of the Legislature will be filed within the time required by the statute.

4.4 The Chairperson will be the spokesperson for the IAC in respect of all aspects of the performance by the IAC or any Commissioner of their duties and responsibilities, unless by formal decision the IAC decides otherwise.

5 Requests for recommendations

5.1 In the ordinary course, all requests for recommendations for appointment will be received by the Administrator on behalf of the IAC from the Appointing Authority concerned and the Administrator will provide the Chairperson with a copy of the request.

5.2 Unless the Chairperson instructs otherwise, the Administrator will immediately provide the PSC with a copy of the written request and any supporting material received. The PSC will immediately thereafter start the process of identifying, from the IAC list of applicants and any other information available, the persons whose qualifications for the position are to be assessed. After obtaining the reasonably available information necessary to assess, on a merit basis, the suitability of each such potential appointee for the position under consideration, the PSC will complete the assessment solely on a merit basis.

5.3 Upon completing its assessment, the PSC will provide the Administrator with a summary report indicating: (i) the names and residential locations of all persons assessed by the PSC; (ii) any specific educational achievement or skills training of those persons; (iii) the extent to which each person met or failed to meet the specified criteria for the position; (iv) any other information considered relevant; and (v) those persons on the list that the PSC considers to be qualified for the position and recommends for consideration by the IAC.

5.4 Upon receipt of that summary report, the Administrator will notify the Chairperson and will, unless the Chairperson shall have instructed otherwise, immediately forward a copy of the same to the Chairperson and each Commissioner to enable each Commissioner to determine: (i) whether there exist any reason why that Commissioner ought to be recused from serving on the Review Panel, and (ii) whether that Commissioner is of the view that any other person assessed by the PSC ought also to be considered by the IAC.

5.5 At the earliest opportunity and, in any event, within five days of receipt of that information each Commissioner shall advise the Administrator as to whether there exists any reason why that Commissioner ought to be recused from determining which of the potential appointees the IAC should recommend be considered for the appointment, and the name, if any, of any other person that Commissioner feels should also be considered by the Review Panel.

5.6 Immediately upon hearing from the last of the four Commissioners or upon the expiration of five days from forwarding the information to the Commissioners, whichever shall first occur, the Administrator shall advise the Chairperson of the responses of the Commissioners.

5.7 The Chairperson will, immediately, determine the persons, if any, to be added to those recommended by the PSC for consideration by the IAC and designate the three Commissioners who will constitute the Review Panel for the purpose of making recommendations for the appointment or appointments concerned.

5.8 The Administrator will immediately: (i) advise the PSC of the additional persons, if any, being considered by the Review Panel; (ii) obtain from the PSC all additional information respecting those persons; (iii) provide copies of the same to each Commissioner on the Review Panel; and (iv) make all other arrangements necessary to enable the Review Panel to conduct its review.

6 Review Panel proceedings

6.1 If, at any stage of the proceedings the Review Panel or the Chairperson concludes;

- (a) that further information respecting the persons identified as potential appointees is necessary;
- (b) that a further number of potential appointees is desirable, or
- (c) in any case where the material does not contain the results of an interview, as to the skill sets, experience, aptitude or other qualities necessary or desirable in the person to be recommended for appointment, that an interview ought to be conducted

the Administrator will make such request of the PSC to provide that further information, further list of names or conduct such interviews as the Chairperson directs or take such other action as the Chairperson may direct.

6.2 Should it become apparent at any stage of the proceedings that it would be necessary or desirable for the purpose of achieving the objective of the Act, for either the Review Panel or the IAC to, itself, arrange for further identification of potential appointees, further information respecting potential appointees identified by the PSC or the completion of any other support service normally supplied by the PSC, the Administrator will take such action as may be directed by the Chairperson.

6.3 If at any stage of its considerations the Review Panel concludes that it is necessary to conduct an interview or interviews with a potential appointee or appointees, the Chairperson will be so advised and, after discussion with the Commissioners on the Review Panel, will decide whether or not an interview or interviews will be conducted and, if interviews are to be conducted, whether it will be done by the Review Panel or by the full IAC.

6.4 Where the Chairperson directs that interviews should be conducted, the Administrator will consult with the PSC as to the most convenient time, place and manner of conducting the interviews and will, unless otherwise instructed by the Chairperson, request that the PSC make the necessary arrangements for the interviews.

6.5 In the course of making its decision as to the persons it proposes be recommended, the Review Panel shall:

- (a) where only 1 position is to be filled for that office, recommend 3 persons for consideration;
- (b) where more than 1 but less than 4 positions are to be filled for that office, recommend for consideration the number of positions to be filled plus 3 persons for consideration;
- (c) where 4 or more but less than 7 positions are to be filled for that office, recommend for consideration twice the number of persons as there are positions to be filled; and
- (d) where 7 or more positions are to be filled for that office, recommend for consideration the number of positions to be filled plus six persons.

6.6 Notwithstanding the preceding Rule, where, in the opinion of the Review Panel:

- (a) it is not aware of sufficient qualified persons to enable it to propose the number of persons specified in the relevant paragraph of Rule 6.5, the Review Panel may propose fewer than the number specified; or
- (b) one or more persons greater than the number specified in the relevant paragraph of Rule 6.5 are also particularly worthy of consideration, the Review Panel may propose for consideration the additional person or persons,

but, in either case, it shall outline its efforts to comply with the relevant paragraph and the reason for the variation.

7 Checking for Conflicts of Interest

7.1 Upon receipt from the Administrator of the names proposed by the Review Panel, the PSC will advise each of those persons, that his or her name is on a list of persons being considered by the IAC for the position concerned and request that he or she, within the next 10 days, confirm continuing interest in the position and state whether she or he, if appointed, would be in an actual, apparent, or potential conflict of

interest. Failure to answer this question fully will be reported by the PSC to the Lieutenant Governor in Council or other appointing authority.

7.2 Immediately upon receipt of responses from all to whom such requests were directed, or on the expiration of 10 days after sending the inquiries, whichever first occurs, the PSC will forward the received responses to the Administrator, and forward any other responses subsequently received, when received.

8 Conclusion of the process

8.1 When the Review Panel has completed its review and reached conclusions as to the persons the Review Panel suggests should be recommended for consideration by the Appointing Authority, the Administrator will obtain sufficient information from the Review Panel to prepare a list of those persons that the Review Panel suggests should be recommended and a brief summary of the reasons for the conclusions reached by the Review Panel, and forward the same to the Commissioners who were not members of the Review Panel, and forward to all Commissioners all information respecting conflict of interest checking received from the PSC.

8.2 Within three days of that information being forwarded to the Commissioners, they shall, by means of an in person, an electronic meeting, or by the Administrator gathering the views of each Commissioner, whichever the Chairperson deems appropriate, make a final determination as to the three persons, or where appropriate another number of persons, to be recommended for consideration for appointment.

8.3 Upon completion of the IAC process:

- (a) the Administrator will, after consultation with the Chairperson, prepare a draft report for consideration by the Chairperson, setting out:
 - (i) the names, in alphabetical order, of the persons that the Review Panel recommends be considered for appointment;
 - (ii) any exceptional characteristic or matter related to a person being recommended that the Commission considers should be drawn to the attention of the Appointing Authority;
 - (iii) any explanation that may be necessary to address the requirements of subsection 10(2); and
 - (iv) any other matter directed by the Chairperson;
- (b) upon receipt of approval by the Chairperson, the Administrator will forward a copy of the draft to each Commissioner; and

(c) the Chairperson shall, when satisfied that the draft report meets with the fullest level of approval likely to be achieved, sign it on behalf of the IAC and the Administrator will forward the same to the Appointing Authority as the report of the IAC, with a copy to the Chief Executive Officer of the PSC.

8.4 Under no circumstances will any Commissioner, the Administrator, or any person connected with the PSC who becomes aware of the names of the persons recommended by the IAC for consideration for appointment, disclose that information or any other information that would result in disclosure of the names recommended or the names of the persons considered but not recommended, except to the extent and in the manner specified in these rules.

9 Preservation of public confidence in the IAC

9.1 Where sixty days have expired after the report of the IAC has been forwarded to the Appointing Authority and there has been no announcement of the appointment of a person to fill the vacancy for which a recommendation was made, the Administrator will, unless for good reason the Chairperson directs otherwise, prepare a news release indicating only that the recommendations required to be made by the IAC for the described positions have been made and the date on which they were forwarded to the Appointing Authority.

9.2 Where any commissioner or the Administrator is made aware by the PSC, or otherwise becomes aware, that a position for which the IAC made recommendations has been filled by appointment of a person who was not one of the names recommended by the IAC for appointment to that position, and the Appointing Authority has not, within ten days of making the appointment, made that fact public, the Administrator will, unless for good reason the Chairperson otherwise directs, prepare a news release indicating only that a person other than one of the persons recommended by the IAC was appointed to the position, and the same shall be released on the authority of the Chairperson.

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[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

RSNL1990 CHAPTER P-43

PUBLIC SERVICE COMMISSION ACT

Amended:

1991 c40 s33; 1991 c45 s15; 1992 c11 s1; OC94-204;
1996 cC-22.1 s.29; 1999 c22 s21; 2001 cN-3.1 s2; 2004 cL-3.1 s56; 2005 c47; 2006 c40 ss16&21;
2010 c31 s18; 2011 cC-37.00001 s50 (not in force- not included); 2016 cI-2.1 s19; 35/16 s2; 44/16
s1; 15/17 s1; 2017 cP-3.01 s32; 35/17 s1; 2017 c10 s26; 2017 c15 s4; 76/17 s2; 103/17 s2; 2018 c3
s4; 54/18 s2; 56/18 s2; 88/18 s2; 97/18 s2;
105/18 s2; 119/18 s2; 2019 c8 s30; 25/19; 2019 cS-29.02 s31;
2019 cP-44.01 s47; 52/20; 65/20; 87/20; 38/21; 52/21; 2021 c27 s29; 2021 cA-1.001 c36; 81/21;
2022 c31 s13; 21/23 s1

CHAPTER P-43

**AN ACT RESPECTING THE PUBLIC SERVICE COMMISSION OF THE
PROVINCE**

Analysis

- [1. Short title](#)
- [2. Definitions](#)
- [3. Application of Act](#)
- [4. Non-application](#)
- [4.1 Labrador Inuit rights](#)
- [5. Commission](#)
- [6. Tenure of office](#)

- [7. Staff](#)
- [8. Pension and leave rights](#)
- [9. Procedure and records](#)
- [10. Right of commission to access and help](#)
- [11. Appointments and promotions](#)
- [12. Idem](#)
- [13. Merit principles](#)
- [14. Boards of examiners](#)
- [15. Duties of commission](#)
- [16. Concerning the Public Inquiries Act](#)
- [17. Annual report to minister](#)
- [18. Regulations](#)
- [18.1 Protection from liability](#)
- [19. Attempt to influence commission](#)
- [20. Application of certain provisions](#)
- [21. Appointments to agencies, boards and commissions](#)
- [22. Recommendations to be considered](#)
- [23. Effect of requirement to consider recommendation](#)
- [24.](#)
- [Schedule C](#)
- [25. Additional powers and duties of commission](#)
- [26. Current appointments unaffected](#)
- [27. Attempt to influence commission](#)

[Schedule A](#)

[Schedule B](#)

[Schedule C](#)

Short title

1. This Act may be cited as the *Public Service Commission Act*.

1973 No116 s1

[Back to Top](#)

Definitions

2. In this Act

- (a) "agency" means a body comprising the public service as defined by paragraph (k);
- (b) "chairperson" means the chairperson of the commission;
- (c) "chief executive officer" means
 - (i) the deputy minister in a department of the government of the province,
 - (ii) the Clerk of the House of Assembly,
 - (ii.1) a person appointed to preside over a statutory office of the House of Assembly,
 - (iii) the Clerk of the Executive Council, and
 - (iv) another official head of an agency designated by the Lieutenant-Governor in Council to function as a deputy minister for the purposes of this Act;
- (d) "commission" means the Newfoundland and Labrador Public Service Commission continued by section 5;
- (e) "commissioner" means a member of the commission;
- (f) "contractual employee" means a person employed for a certain term for the purpose of performing certain specified work and whose terms and conditions of employment are specifically stated in a written contract;
- (g) "delegation" means a delegation of authority by the commission to a chief executive officer;
- (h) "employee" means a person employed in the public service;
- (i) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (j) "part-time employee" means an employee regularly employed to work less than the full number of working hours in a working day or less than the full number of working days in a working week of the agency concerned;
- (k) "public service" means
 - (i) the departments and other portions of the public service of the province specified in Schedule A,
 - (ii) an office, body or agency considered by the Lieutenant-Governor in Council to be a portion of the public service and added to Schedule A under section 3, and
 - (iii) the House of Assembly establishment and the statutory offices of the House of Assembly;
- (l) "seasonal employee" means an employee whose services are of a seasonal and recurring nature and includes an employee who is subject to periodic reassignment to various positions because of the nature of his or her work; and

(m) "temporary employee" means an employee, not being a contractual employee, employed for a specific period or for the purpose of performing certain specified work and whose employment may be terminated at the end of the period or upon completion of the work.

[1973 No116 s2; 1986 c39 s1; 1989 c33 Sch B; 2001 cN-3.1 s2; 2005 c47 s1; 2006 c40 s21](#)

[Back to Top](#)

Application of Act

3. (1) This Act applies to

- (a) those portions of the public service of the province specified in Schedule A to this Act;
- (b) a body or agency considered to be a portion of the public service of the province for the purposes of this Act and added to that Schedule under this section; and
- (c) the House of Assembly establishment and the statutory offices of the House of Assembly.

(1.1) This Act applies to the appointments under the statutory authority or to entities listed in Schedule C in the manner referred to in sections 20 to 27.

(2) The Lieutenant-Governor in Council may by order

- (a) consider a body or agency to be a portion of the public service of the province for the purposes of this Act; and
- (b) add that body or agency to those portions of the public service specified in Schedule A.

(3) An order made under this section is subordinate legislation for the purposes of the *Statutes and Subordinate Legislation Act*.

(4) An order made under this section may be made with retroactive effect to a date stated in the order.

[1986 c39 s2; 2006 c40 s16; 2016 cI-2.1 s19](#)

[Back to Top](#)

Non-application

4. (1) Except as provided in sections 20 to 27, this Act does not apply to the appointment of

- (a) the following officers of the House of Assembly and staff of the House of Assembly establishment:
 - (i) the Clerk, Clerk Assistant and Sergeant-at-Arms of the House of Assembly,
 - (ii) the Auditor General,
 - (iii) the Citizens' Representative,

- (iv) the Child and Youth Advocate,
- (iv.1) the Seniors' Advocate,
- (v) the Commissioner for Legislative Standards,
- (vi) the Chief Electoral Officer,
- (vii) the Information and Privacy Commissioner, and
- (viii) political staff as defined in paragraph 2(1)(e) of the *Conflict of Interest Act, 1995*;

(b) a position compensated under the executive pay plan;

(c) [Rep. by 2005 c47 s2]

(d) chairpersons and members of the boards, or other equivalent governing bodies, of agencies;

(e) staff of the Lieutenant-Governor's establishment;

(f) staff of the office of the Premier;

(g) executive and special assistants to ministers of the Crown;

(h) private secretaries to ministers of the Crown;

(i) members, within the meaning of the *Royal Newfoundland Constabulary Act*, of the Royal Newfoundland Constabulary;

(j) members, within the meaning of the *St. John's Fire Department Act*, of the St. John's Fire Department;

(k) the Superintendent and Assistant Superintendent of Her Majesty's Penitentiary, within the meaning of the *Prisons Act*, and staff appointed under subsection 4(1) of the *Prisons Act*;

(l) barristers or solicitors;

(m) medical doctors and dental surgeons;

(n) contractual employees;

(o) temporary employees;

(p) seasonal employees; and

(q) part-time employees.

(2) This Act does not apply to the appointment of those employees whose terms of employment are governed by a collective agreement between the Crown, the Newfoundland Hospital and Nursing Home Association and the Newfoundland Association of Public Employees.

1973 No116 s5; [1992 c11 s1](#); [1999 c22 s21](#); [2005 c47 s2](#); [2010 c31 s18](#); [2016 cI-2.1 s19](#); [2017 c10 s26](#)

[Back to Top](#)

Labrador Inuit rights

4.1 This Act shall be read and applied in conjunction with the *Labrador Inuit Land Claims Agreement Act* and, where a provision of this Act is inconsistent or conflicts with a provision, term or condition of the *Labrador Inuit Land Claims Agreement Act*, the provision, term or condition of the *Labrador Inuit Land Claims Agreement Act* shall have precedence over the provision of this Act.

[2004 cL-3.1 s56](#)

[Back to Top](#)

Commission

5. (1) The Newfoundland and Labrador Public Service Commission is continued.

(2) The membership of the commission shall consist of 3 members.

(3) The members of the commission shall be appointed by the Lieutenant-Governor in Council.

(4) At least 1 member of the commission shall be appointed from the public service of the province and have served in the public service for at least 10 years.

(5) In subsection (4) a period of service as a member of the commission counts as service in the public service.

(6) The Lieutenant-Governor in Council shall designate 1 of the members of the commission to be chairperson.

(7) The chairperson shall be the chief executive officer of the commission, shall have the status of a deputy minister and shall direct and supervise the administrative and technical activities of the commission.

(8) The exercise of the powers of the commission shall not be impaired because of a vacancy in its membership.

(9) Acts done by the commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the commission, be as valid as if the defect had not existed.

(10) There shall be paid out of the Consolidated Revenue Fund to a commissioner the remuneration that shall be determined by the Lieutenant-Governor in Council, provided that the Lieutenant-Governor in Council may not reduce the remuneration which a commissioner previously received without the assent of the House of Assembly.

(11) A commissioner shall not hold another office in the public service of the province or engage in other employment.

1973 No116 s6; 1983 c67 s1; [2001 cN-3.1 s2](#)

[Back to Top](#)

Tenure of office

6. (1) A commissioner holds office during good behaviour, but is removable by the Lieutenant-Governor in Council on address of the House of Assembly.

(2) A commissioner shall discharge the duties assigned to him or her under this Act and the regulations and the other duties that the minister assigns which shall be consistent with this Act.

(3) A commissioner shall before entering upon his or her duties take and sign before the Clerk of the Executive Council the oath or affirmation set out in Schedule B, and that signed oath or affirmation shall be retained by the Clerk of the Executive Council as part of the records of the clerk's office.

1973 No116 s7; 1986 c39 s3

[Back to Top](#)

Staff

7. Those officers, clerks and employees that are necessary for the proper conduct of the business of the commission shall be appointed or employed in the manner authorized by law, but the minister may authorize the temporary employment of the technical and other assistants that he or she thinks necessary and fix the remuneration of and prescribe the expenses that may be incurred by those assistants in carrying out their official duties.

1973 No116 s8

[Back to Top](#)

Pension and leave rights

8. A

(a) commissioner; and

(b) clerk, officer or employee with the commission who would, if employed by a department of the government of the province, be an employee for the purposes of the *Public Service Pensions Act, 2019*

is considered to be an employee for the purposes of the *Public Service Pensions Act, 2019*, including the purposes of the retirement age and the advanced or deferred pension privileges of an employee, and shall be subject to the same provisions respecting leave as a full-time employee of a department of the government of the province, however, the Lieutenant-Governor in Council may extend the service of a commissioner beyond normal retirement age and that extension shall be treated as re-employment after retirement age for the purposes of the *Public Service Pensions Act, 2019*.

1973 No116 s9; [2019 cP-44.01 s47](#)

[Back to Top](#)

Procedure and records

9. The commission shall adopt rules of procedure, subject to the approval of the Lieutenant-Governor in Council, and shall keep a record of its proceedings.

1973 No116 s10

[Back to Top](#)

Right of commission to access and help

10. Chief executive officers and employees in the public service shall give the commission the access to their respective offices and the facilities, assistance and information that the commission may require for the performance of its powers, functions and duties.

1973 No116 s11

[Back to Top](#)

Appointments and promotions

11. Appointments or promotions to positions within the public service, except those positions referred to in section 4, shall not be made except on the recommendation of the commission.

1973 No116 s12

[Back to Top](#)

Idem

12. Appointments to positions within the public service shall be made from within the public service except where, in the opinion of the commission, it is not in the public interest to comply with this requirement.

1973 No116 s13

[Back to Top](#)

Merit principles

13. (1) Recommendations for appointments to and promotions within the public service shall be based on merit principles and made by the commission through competitive written examination or by other processes of personnel selection designated to establish the merit of candidates that the commission considers are in the best interests of the public service.

(2) Subject to the regulations, the commission may, in writing, and subject to those regulations that the Lieutenant-Governor in Council may make, delegate to a chief executive officer the authority to exercise and perform the powers or functions of the commission in relation to appointments and promotions to specific positions or categories of positions within that part of the public service of which he or she is the chief executive officer.

(3) Delegations shall be subject to review annually by the commission in accordance with rules of procedures adopted by the commission.

1973 No116 s14; 1983 c67 s2

[Back to Top](#)

Boards of examiners

14. (1) The commission may set up boards of examiners to test and pass upon the qualifications of candidates for appointment to or promotion within the public service.

(2) The chief executive officer of the agency in respect of which candidates for appointment or promotion are examined by a board of which he or she is not a member under subsection (1) may, upon so requesting, be present or designate a representative to be present at the interviewing of the candidates, with the right to participate in the interviewing, but he or she shall not be present at, or have the right to participate in, the making of the recommendation referred to in subsection (5).

(3) The chairperson, when sitting upon a board of examiners, shall be chairperson of the board, and in other cases he or she shall designate a chairperson.

(4) Members of boards of examiners, except those who are commissioners or employees in the public service, may be paid the daily allowance for the time occupied by them in attending a board of examiners and the expenses that the regulations provide.

(5) In respect of each appointment or promotion, the board of examiners shall recommend 3 candidates in order of merit and this list shall be submitted to the chief executive officer concerned for final selection provided that the board may recommend less than 3 if it is considered that fewer than 3 candidates are qualified.

(6) The recommendation of a board of examiners under subsection (5) shall be considered to be the recommendation of the commission.

1973 No116 s15

[Back to Top](#)

Duties of commission

15. (1) The commission shall

- (a) prescribe the standards and procedures to be followed in the recruitment and selection of candidates for appointment to and promotion within the public service;
- (b) review personnel transactions and investigate and report to the minister upon this Act and upon the violation of the regulations and upon other matters relative to the public service, its officers and other employees;
- (c) supervise effective personnel transfer and promotion procedures;
- (d) provide personnel planning advisory services;

- (e) advertise and effectively distribute information regarding vacant positions in the public service other than with respect to appointments referred to in section 4;
- (f) prepare, maintain and distribute to employees of the public service appropriate staff procedure manuals;
- (g) provide staff evaluation advisory services;
- (h) provide, in consultation with chief executive officers and the Treasury Board, appropriate staff training and executive development programs;
- (i) assume the additional duties and supply the additional services that may be prescribed by the Lieutenant-Governor in Council; and
- (j) do other acts and things that may be necessary for the proper administration of this Act and the regulations.

(2) Where a report referred to in paragraph (1)(b) relates to a personnel transaction involving the House of Assembly establishment or a statutory office of the House of Assembly, the report shall be made to the Speaker of the House of Assembly.

1973 No116 s16; [2005 c47 s3](#)

[Back to Top](#)

Concerning the Public Inquiries Act

16. For the purpose of carrying out his or her powers, functions and duties under this Act, a commissioner has the powers, authorities, privileges and immunities that are or may be conferred upon a commissioner under the *Public Inquiries Act* and is considered to be an "investigating body" for the purposes of the *Public Investigations Evidence Act*.

1973 No116 s17

[Back to Top](#)

Annual report to minister

17. The chairperson shall, following the end of each financial year of the government, make a report to the minister of the transactions and affairs of the commission during the immediately preceding financial year, and the minister shall lay the report before the Legislature within 15 days after it is submitted to him or her if the Legislature is then sitting, and, if it is not sitting, then within 15 days after the beginning of the next session.

1973 No116 s18

[Back to Top](#)

Regulations

18. The Lieutenant-Governor in Council may make regulations

- (a) for the purposes of subsection 6(2);

- (b) specifying the powers and functions of the commission that may be delegated under subsection 13(2), providing for the positions or categories of positions to which that subsection may apply, prescribing procedures to be followed in the exercise of the delegation and providing for the monitoring by the commission of the use of the delegation;
- (c) providing for the allowances and expenses referred to in subsection 14(4);
- (d) necessary or desirable for the carrying out of the commission's powers, functions and duties under this Act; and
- (e) generally, to give effect to the purpose of this Act.

1973 No116 s19

[Back to Top](#)

Protection from liability

18.1 A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Attempt to influence commission

19. (1) A person shall not, directly or indirectly, try to influence improperly the commission, a member of a board of examiners referred to in section 14, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person to the public service or with respect to the promotion of himself or herself or another employee in the public service.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days and, where the person is employed in the public service, he or she is also liable to suspension or dismissal.

(3) A prosecution under this section shall not be taken except with the written consent of the minister.

1973 No116 s20

[Back to Top](#)

Application of certain provisions

20. (1) This section and sections 21 to 27 apply only to

- (a) the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C; and

(b) to appointments listed in the schedule to the *Independent Appointments Commission Act*.

(2) In the case of a conflict between the other provisions of this Act and this section and sections 21 to 27, this section and sections 21 to 27 apply.

(3) In this section and sections 21 to 27

(a) "appointment", except as otherwise provided, means the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C;

(b) "merit-based process" means a process established by the commission for the purpose of executing its duties under sections 21 to 27; and

(c) "minister", notwithstanding paragraph 2(i), means the minister

(i) responsible for the administration of the Act under the authority of which an appointment may be made, or

(ii) to whom an entity is accountable further to its establishment.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Appointments to agencies, boards and commissions

21. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

(a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with sections 21 to 27; or

(b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Recommendations to be considered

22. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Effect of requirement to consider recommendation

23. Notwithstanding section 22, the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Schedule C

24. (1) The Lieutenant-Governor in Council may, by order, amend Schedule C.

(2) An order made under this section is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Additional powers and duties of commission

25. In addition to the other powers and duties of the commission under this Act, the commission may,

- (a) with respect to appointments,
 - (i) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist,
 - (ii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,
 - (iii) create and maintain a list of potential appointees based on subparagraphs (i) and (ii), and
 - (iv) further to a merit-based process, provide to the Lieutenant-Governor in Council or the minister, as appropriate, recommendations for appointments; and
- (b) with respect to appointments as defined in the *Independent Appointments Commission Act*,
 - (i) support and advise the commission established under the *Independent Appointments Commission Act* in the manner contemplated by that Act,
 - (ii) advertise and otherwise effectively distribute information respecting appointments and receive applications where vacancies exist,
 - (iii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,

- (iv) create and maintain a list of potential appointees based on subparagraphs (ii) and (iii), and
- (v) further to a merit-based process, provide to the commission established under the *Independent Appointments Commissions Act* a list of all potential appointees, including a list of recommendable potential appointees.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Current appointments unaffected

26. Nothing in sections 20 to 25 affects an appointment made before the coming into force of this section.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Attempt to influence commission

27. (1) A person shall not, directly or indirectly, try to influence improperly the commission, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person

- (a) to an appointment; or
- (b) to an appointment as defined in the *Independent Appointments Commission Act* .

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

[2016 cI-2.1 s19](#)

[Back to Top](#)

Schedule A

1. A department established under the *Executive Council Act*
2. The Executive Council Office
3. C.A. Pippy Park Commission
4. College of the North Atlantic
5. Government Purchasing Agency
6. Municipal Assessment Agency

7. Newfoundland and Labrador Public Service Commission
8. The Rooms Corporation of Newfoundland and Labrador
9. The Provincial Information and Library Resources Board

2005 c47 s4

[Back to Top](#)

Schedule B

I, A.B., of solemnly swear (or solemnly, sincerely and truly declare and affirm) that I will faithfully and honestly fulfil the duties which devolve upon me as a member of the Newfoundland and Labrador Public Service Commission and that I will not, without due authority in that behalf, disclose or make known matters which come to my knowledge because of my holding office as a member of the commission. (Where an oath is taken, add "So help me God".)

1986 c39 s4; 2001 cN-3.1 s2

[Back to Top](#)

Schedule C

Entities

Advisory committee established under section 14 of the *Prescription Monitoring Act* with respect to public representatives

Atlantic Lotto Corporation with respect to provincial representatives

Audit Committee with respect to ministerial appointments of members external to government

C.A. Pippy Park Golf Course Limited with respect to ministerial appointments

Canadian Free Trade Agreement Roster for Appellate Panels

Canadian Free Trade Agreement Roster for Panels and Compliance Panels

Committee for the Independent Review of the Public Post-Secondary Education System

Independent Geoscience Technical Advisory Committee with respect to mineral industry representatives

Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees

Municipal Assessment Agency with respect to taxpayer representatives

Mistaken Point World Heritage Site Advisory Council with respect to public interest members

Newfoundland and Labrador Film Development Corporation

Newfoundland and Labrador Historic Commemorations Board

Newfoundland and Labrador Sports Centre Inc. with respect to 6 members and a chairperson appointed by Lieutenant-Governor in Council

Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson

Oil and Gas Industry Development Council

Premier's Youth Council

Provincial Advisory Council on Aging and Seniors

Provincial Advisory Council on Mental Health and Addictions

Provincial Cancer Control Advisory Committee

Provincial Council of the Rural Secretariat

Provincial Wellness Advisory Council

Regional Council of the Rural Secretariat - Avalon Peninsula

Regional Council of the Rural Secretariat - Burin Peninsula

Regional Council of the Rural Secretariat - Clarenville-Bonavista

Regional Council of the Rural Secretariat - Corner Brook-Rocky Harbour

Regional Council of the Rural Secretariat - Gander-New-Wes-Valley

Regional Council of the Rural Secretariat - Grand Falls-Windsor-Baie Verte-Harbour Breton

Regional Council of the Rural Secretariat - Labrador Region

Regional Council of the Rural Secretariat - St. Anthony-Port au Choix Region

Regional Council of the Rural Secretariat - Stephenville-Port aux Basques Region

Teacher Allocation Review Committee

Torngat Joint Fisheries Board with respect to the members appointed by the provincial minister

Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister

URock Volunteer Award Selection Board

Statutory Appointments

Accessibility Act, subsection 9(3)

Apprenticeship and Certification Act , subsection 5(1)

Architects Act, 2008 , subsections 6(1) and 15(4) with respect to ministerial appointments

Arts Council Act , section 6

Atlantic Provinces Harness Racing Commission Act , subsection 5(1)

Atlantic Provinces Special Education Authority Act (Nova Scotia), paragraph 5(2)(b)

Buildings Accessibility Act, sections 18 and 20 with respect to Lieutenant-Governor in Council appointments

Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act, section 201.114 with respect to provincial appointments

Chartered Professional Accountants and Public Accountants Act , subsections 5(1) and 28(4) with respect to ministerial appointments

Chiropractors Act, 2009 , subsections 5(1) and 21(4)

Credit Union Act, 2009, Credit Union Regulations, 2009, subsection 40(1) with respect to ministerial appointments

Criminal Code , section 672.38

Crop Insurance Act , section 3

Dental Act, 2008 , paragraphs 5(2)(c) and 27(6)(b)

Denturists Act, 2005 , subsections 4(1) and 14(1) with respect to ministerial appointments

Dietitians Act , subsections 6(1) and 22(4) with respect to ministerial appointments

Dispensing Opticians Act, 2005 , subsections 5(1) and 13(4) with respect to ministerial appointments

Economic Diversification and Growth Enterprises Act , subsection 6(1)

Embalmers and Funeral Directors Act, 2008 , subsections 4(1) and 16(3) with respect to ministerial appointments

Endangered Species Act , subsection 6(3)

Engineers and Geoscientists Act, 2008 , subsections 5(1) and 21(4) with respect to ministerial appointments

Fatalities Investigations Act , subsection 13.1

Financial Services Appeal Board Act , section 3

Fish Processing Licensing Board Act , section 5

Forestry Act , section 58

Geographical Names Board Act , section 3

Government Money Purchase Pension Plan Act , section 12.1

Government Purchasing Agency Act , subsection 7(1)

Health Professions Act , subsection 9(1) and paragraph 35(4)(c) with respect to ministerial appointments

Health Research Ethics Authority Act , paragraph 3(2)(d)

Hearing Aid Practitioners Act , subsections 4(1) and 13(4) with respect to ministerial appointments

Historic Resources Act , section 22

Human Rights Act, 2010 , section 36

Income and Employment Support Act , section 42

Labrador Inuit Land Claims Agreement, Part 12.8.2, 13.10.2

Lands Act , *St. John's Urban Region Agriculture Development Area Regulations* , subsections 3(4) with respect to the appointment of a member of the community and subsection 7(2)

Law Society Act, 1999 , subsections 42(3.1),(3.2) and (4) with respect to ministerial appointments and paragraph 65(2)(b)

Licensed Practical Nurses Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Livestock Insurance Act , section 3

Management of Greenhouse Gas Act , paragraphs 8(2)(a) and (b)

Massage Therapy Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Medical Act, 2011 , paragraph 9(1)(b) and subsection 40(4) with respect to ministerial appointments

Medical Care and Hospital Insurance Act , subsection 28(1) with respect to those persons not nominated by the medical or dental associations

Medical Care and Hospital Insurance Act, 1999 , *Physicians and Fee Regulations* , paragraph 15(1)(b)

Mental Health Care and Treatment Act , section 57

Mineral Act , section 37

Muskrat Falls Project Land Use and Expropriation Act , *Muskrat Falls Project Land Use and Expropriation Regulations* , section 16

Natural Products Marketing Act , section 3

Natural Products Marketing Act, Egg Scheme, 2000 , subsection 4(4)

Natural Products Marketing Act, Milk Scheme, 1998 , subsection 4(6)

Natural Products Marketing Act, Newfoundland and Labrador Chicken Marketing Scheme , subsection 4(1.1)

Occupational Health and Safety Act , section 12

Occupational Therapists Act, 2005 , subsections 4(1) and 14(4) with respect to ministerial appointments

Optometry Act, 2012 , subsections 9(1) and 27(4) with respect to ministerial appointments

Order of Newfoundland and Labrador Act , paragraph 12(1)(c)

Patient Safety Act , subparagraph 19(1)(b)(i)

Petroleum and Natural Gas Act, Royalty Regulations, 2003 , paragraph 81(6)(b)

Pharmaceutical Services Act , section 42

Pharmaceutical Services Act, Pharmaceutical Services Regulations , paragraphs 8(2)(d) and (e)

Pharmacy Act, 2012 , subsections 6(1) and 36(4) with respect to ministerial appointments

Physiotherapy Act, 2006 , subsections 5(1) and 16(4) with respect to ministerial appointments

Private Training Institutions Act, Private Training Institutions Regulations , paragraphs 3.1(e) and (f)

Professional Fish Harvesters Act , paragraphs 5(2)(f) and (h) and subsection 15(3) and section 20 with respect to the appointment of a person who is not a professional fish harvester

Provincial Court Act, 1991 , paragraphs 16(2)(b), 19(1)(c) and 20(1)(c)

Provincial Health Authority Regulations , subsection 7(2)

Psychologists Act, 2005 , subsections 4(1) and 15(4) with respect to ministerial appointments

Public Libraries Act , paragraph 3(c)

Public Safety Act , subsection 25(1)

Queen's Counsel Act , subsection 7(2) with respect to appointments not recommended by benchers

Regional Services Board Act, 2012 , subsection 6(2)

Registered Nurses Act, 2008 , paragraph 6(1)(b) and subsection 19(5) with respect to ministerial appointments

Royal Newfoundland Constabulary Act, 1992 , subsection 29(1)

Social Workers Act , subsection 12(1) and paragraph 24(4)(c)

Student Financial Assistance Act, 2019 , *Student Financial Assistance Administration Regulations* , paragraphs 18(1)(b) and (e)

Teachers Training Act , section 3

Urban and Rural Planning Act, 2000 , subsection 41(1)

Veterinary Medical Act, 2004 , subsections 7(1) and 33(1) with respect to ministerial appointments

Wilderness and Ecological Reserves Act , subsection 7(1)

[2016 cI-2.1 s19](#); [35/16 s2](#); [44/16 s1](#); [15/17 s1](#); [2017 cP-3.01 s32](#); [35/17 s1](#); [2017 c15 s4](#); [76/17 s2](#)
[103/17 s2](#); [2018 c3 s4](#); [54/18 s2](#); [56/18 s2](#); [88/18 s2](#); [97/18 s2](#); [105/18 s2](#); [119/18 s2](#); [25/19 s2](#); [2019 c8 s30](#); [2019 cS-29.02 s31](#); [52/20 s1](#); [65/20 s1](#); [87/20 s2](#); [38/21 s2](#); [52/21 s1](#); [2021 c27 s29](#); [2021 cA-1.001 s36](#); [81/21 s2](#); [2022 c31 s13](#); [21/23 s1](#)

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Independent Appointments Commission

May 12, 2023

Mr. David Conway
IAC Review
261 Kenmount Road
P.O. Box 8700
St. John's, NL A1B 4J6;

Dear Mr. Conway:

Thank you for undertaking the statutory review of the Independent Appointments Commission (IAC) Act. Your work is important, and we look forward to your report in due course.

Given the review is focusing on the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes that support its administration, I am pleased to provide input on behalf of the members of the Independent Appointments Commission which broadly reflects these areas.

Please let us know if you have any questions. As always, I am available to meet on behalf of the IAC for the duration of the review. Don't hesitate to reach out.

Kind regards,

A handwritten signature in black ink that reads "Karen M. McCarthy". The signature is fluid and cursive, with "Karen" and "McCarthy" being the most prominent parts.

Karen M. McCarthy
Chair

cc. George Joyce
Public Service Commission

**Submission to Mr. David Conway
Regarding Statutory Review of the Independent Appointments Commission Act**

May 12, 2023

Introduction

The Independent Appointments Commission is pleased to contribute to the statutory review of the legislation under which it operates. Since the Act received Royal Assent in May of 2016, the IAC has undertaken its mandate to provide merit-based appointment recommendations to the Government of Newfoundland and Labrador for vacancies on agencies, boards, and commissions responsibly and professionally. To guide its deliberations and in accordance with the Act, the IAC developed a Rules of Procedure which may be accessed here: <https://www.iacnl.ca/files/Rules-of-Procedure-for-Independent-Appointments-Commission.pdf>. Given the IAC was newly established in 2016, we view the review as an opportunity to reflect on our role and provide input to identify improvements as per the review's terms of reference.

We would like to thank the legislature for supporting the establishment of the IAC. Newfoundland and Labrador certainly is a leader in the country in ensuring merit-based appointments to its agencies, boards and commissions, something we strongly believe must continue in future. Further, we note that insofar as we are aware, deviations from the merit-based appointments system have been rare. This is an indication that the fundamental spirit and intent of the Act is meeting the broad needs for merit-based appointments. We feel the IAC operates well within its regulatory and budgetary mandates, but we also feel there is room for improvement in further meeting the intent of the Act.

This submission may be better understood if you bear in mind that the IAC as an entity does not have a defined budget to oversee its operations; rather, given the intent of the initial establishment of the entity was to be cost-neutral or to incur minimal expenditures only, the IAC is supported through the Public Service Commission's (PSC) existing annual budgetary allocation. Direct costs since inception have been minimal, including an administrative assistant who is providing support 10 hours per week and certain travel cost reimbursements for members who are from outside St. John's on average twice annually. All other meetings are held virtually. On rare occasions (≤ 5), external search firms have been engaged to assist with recruiting for certain positions. These costs have been born within existing budgets of responsible Government departments. Office space is available for the use of the IAC as part of the Public Service Commission's office space on Kenmount Road in St. John's. No compensation is provided to members of the IAC.

Please be aware also that the IAC is responsible only for what is referred to as Tier 1 agencies and there are approximately 30 of these appended to the Act. All other merit-based appointments (Tier 2) are within the jurisdiction of the Public Service Commission only; the IAC does not have any involvement in appointments to these agencies of which there are 100+.

The ACT and Rules of Procedure (ROP)

Pending the outcome of the review and any subsequent amendments to the IAC Act, the IAC is committed to undertaking a review of its Rules of Procedure (provided for in the Act) to ensure they continue to enable members to act with precision and efficiency in undertaking their regulatory duties.

Process, Timelines and Transparency

The IAC understands that the current timelines related to IAC appointment recommendations may be considered lengthier than desired by some. Statistics convey that from the time a Minister of the Crown writes the Chair of the IAC to request merit-based recommendations for vacant positions until such time that recommendations are referred is about six months. It is important to note that the average time for IAC members to review candidates and select referrals is about three weeks. The remaining timelines are primarily associated with the following:

- working with Government departments to clarify requirements for available positions
- preparing position postings and promoting opportunities
- assessing interested candidates and preparing relevant documents for IAC members
- confirming interest of candidates to proceed once selected and identifying any perceived or real conflicts of candidates which ought to be noted for Government
- checking references, and
- final referral of recommendations to the requesting Government Minister.

The work of the IAC, when an IAC panel meets to review applications and formulate recommendations, falls between checking references and the final referral of recommendations to the referring Minister.

Ancillary duties also include engaging with Access to Information and Privacy requests in a timely fashion. These processes are collectively supported by staff at the Public Service Commission and by one part-time administrative assistant in the IAC office (as noted above).

Once referrals are made to Government Ministers, it takes on average three to four months for appointments to be announced publicly. We understand this process involves preparation of a Cabinet submission and usual protocols involved with Cabinet approval. When combined with the initial six-month process referenced above, the total time amounts to approximately nine months.

We find that Government department officials are not always clear on the processes involved for Tier 1 and Tier 2 appointments. Similarly, agencies, boards and commissions are not clear. For example, the number of recommended individuals referred to Government following a competition are different for Tier 1 and Tier 2 entities – see section 10 and 12 of the IAC Act. Consequently, additional education opportunities to ensure all parties are clear on the processes will assist in expediting and increasing knowledge on the overall process. Specifically, the expediting of processes may be enabled by allowing for full-time staffing with sole responsibility for management and operation of the IAC.

FOR CONSIDERATION

1. Increase education with Government departments, agencies, boards, and commissions on how the merit-based appointments process is carried out, both for Tier 1 (IAC) and Tier 2 appointments (PSC)
2. Recruit a full-time Director of Appointments for the IAC

Relevant stakeholders, whether Government departments, IAC applicants, agencies, boards and commissions, media or others often request updates on competitions, both during the IAC process as well as once recommendations have been made to Government Ministers. To ensure process transparency and to expediently manage these requests, the IAC could consider implementing an online system which captures the dates of key processes during the competition process, particularly from receipt of Ministerial request to IAC to referral of candidates to Government and subsequent public announcement of appointments. If adopted, this would require an update to the IAC's Rules of Procedures in Section 9.1. The IAC could also indicate whether final appointments are in keeping with recommendations made or whether Government has chosen to use a relevant section of the IAC Act (such as 9(2)b) or authority of another Act to make an alternate appointment. This, then, would also require an update to Section 9.2 of the Rules of Procedure. Should this on-line system not be implemented, the IAC will need to continue to use mechanisms within our policies and procedure, at our discretion, to ensure transparency and accountability to our stakeholders.

Further to Government, within its authority, selecting a candidate outside the recommendations made by the IAC, either on an emergency basis or otherwise, the IAC could benefit from being aware of the decision in advance or simultaneously to the appointment becoming public. This information may assist the IAC in offering certain solutions in a similar situation going forward, including implementing a fast-tracking referral process.

FOR CONSIDERATION

3. Implement a reporting mechanism on the IAC website to capture key dates during, and outcomes of, each competition
4. Update the Act to allow for a communication between Government and the IAC when exceptions to the normal process are necessary

Diversity of Candidates, Regional Representation and Broad Citizen Interest

Diversity of candidates is a priority for the IAC. Ideally the IAC would like to see a provision concerning diversity included in the Act to give more clarity to this important issue and to help ensure an applicant pool which reflects the diversity of our Province. We are not advocating moving away from the merit-based approach and believe that this should remain in the Act. The IAC requires, however, the flexibility to make merit-based recommendations within a diversity framework. In its application process, the IAC provides applicants with the opportunity to self-identify on diversity constructs. However, it's not mandatory. Diversity of representation can be broad – from race and ethnicity to gender, geography, sexual identity and more. The IAC is cognizant that it must be intentional in maximizing diversity of candidates and that it will involve increased and suitable communication with a variety of groups. We also believe that how we communicate to diverse and broad groups about opportunities with agencies, boards and commissions is critical and needs improvement. Members of the House of Assembly can also be helpful in encouraging diverse applicants from all regions of the Province to consider putting their name forward as a candidate. Further, the Public Service Commission may be able to provide meaningful assistance in this area.

FOR CONSIDERATION

5. Include a provision in the IAC Act which addresses diversity

Branding, Marketing and Awareness

The IAC believes that improvements are necessary in overall communication of what the IAC is, why it exists, what opportunities are available, and how the IAC promotes these opportunities. Our assessment is that a large portion of our population is not even aware of the IAC, and this is impacting the numbers and diversity of the candidate pool. We need proactive outreach and further advice on marketing and communications campaigns to achieve our goals. With this comes the need for financial and human resources. As volunteers, members of the IAC should restrict most of their duties to the selection of merit-based candidates for Tier 1 entities. However, the chair and vice-chair of the IAC might expect to assist in communications activities from time to time. Over the past year, the IAC has undertaken, with Government's assistance, a new branding project which should help to encourage a more diverse candidate pool. While this work is being finalized, a more comprehensive approach to marketing and communications, including a focus on social media, is required. In particular, the IAC needs to be established from a branding perspective as the stand-alone, independent entity that it is. Today, it doesn't even enjoy the ability to promote opportunities under its own "handle" on Twitter or LinkedIn.

On a related point, a challenge exists with increased promotion of opportunities given so few Tier 1 positions are available at any given time. This may be ameliorated by considering how Tier 1 and Tier 2 appointments are presented on the website or promoted more broadly.

FOR CONSIDERATION

6. Recruit a full-time marketing communications resource to work with the Director of Appointments on both internal (Government) and external (public/stakeholder) profiling opportunities
7. Provide appropriate budgetary allocation for paid advertising on various digital platforms as part of a strategic campaign to encourage increased numbers of applicants coming forward

Tier 1 or Tier 2: Who Belongs in Which Category and Where Should Responsibilities Lay

The IAC has not contemplated whether those agencies, boards and commissions which are now included in either the Tier 1 or Tier 2 appointment process are well suited to these categories. Similarly, we have not considered whether the responsibility for Tier 2 entities ought to be folded into the IAC versus remaining with the Public Service Commission. We would be happy to contribute to this discussion if indeed key stakeholders feel a review is necessary.

Operations

The applicant registration system needs improvement. In its current form it is not conducive to candidates updating their profile once it is initially completed, and after a two-year period, the system now results in the application expiring. Information technology assistance has been requested of Government given the criticality of a smooth application interface.

On administrative support, if some of the considerations provided above are eventually adopted, increased support in this area will be required. A reminder that administrative support is provided for through a low 10 hours per week currently.

On budgeting, it may make sense for the IAC to be voted a budget for which it provides direct oversight – assuming many of the noted considerations are adopted.

FOR CONSIDERATION

8. Rebuild or minimally update the IAC application registration system
9. Assess administrative support requirements pending outcomes of the statutory review
10. Consider mandating an operational budget to the IAC

May 18, 2023

David Conway
45 Baker Street
St. John's, NL A1A 5C5

Dear David:

Thank you for reviewing the **Independent Appointments Commission Act**. As outlined in the terms of reference, the intent of the statutory review is to solicit ideas on how to make the process more effective and efficient for all participants. As the Secretariat to Independent Appointments Commission (IAC), the Public Service Commission (PSC) looks forward to your report and the implementation of recommendations that will that will improve the outcomes for all involved.

The PSC offers the following recommendations.

Technological Enhancements for Efficiency

The online Application for Public Appointment requires modernization. This system allows applicants to express interest in either Tier 1 or Tier 2 opportunities. Currently, applicants move through a number of steps whereby they are asked for specific information, i.e. interests, education, expertise, demographic information, etc. This is cumbersome. At times, the information received through the application is very limited, and not as fulsome as a complete resume. There is also no opportunity for an applicant to update or remove a profile from the system. At times, there have been multiple applications by the same applicant. The website should also provide more information to applicants on the IAC process. Transparency around the process could enhance the applicant experience.

Marketing/Branding Enhancements

Increase the visibility of the agencies, boards, and commissions (ABCs) merit based process through enhanced marketing and branding. Uptake in the early days of the new appointment process was robust. However, in recent years there has been less interest. There is a need to attract and encourage qualified and diverse individuals to contribute to the province by sitting on various boards, in particular people residing in rural areas. Advanced marketing efforts that focus on the work of ABCs and the impact they have in



supporting natural resource development, delivering important public services to families and providing independent advice to Government will help achieve this.

Should you have any questions pertaining to the above, please feel free to contact me.

Sincerely,


GEORGE JOYCE
Chair and Chief Executive Officer



**HOUSE OF ASSEMBLY
NEWFOUNDLAND AND LABRADOR
Official Opposition Office**

May 17, 2023

Mr. David Conway
Consultant
Statutory Review of the Independent
Appointments Commission (IAC Review)
261 Kenmount Road
P.O. Box 8700
St. John's, NL A1B 4J6
Email: IACreview@gov.nl.ca

**Submission to the Statutory Review of
the Independent Appointments Commission**

On behalf of the Official Opposition Caucus of the House of Assembly, I make this submission to Statutory Review of the Independent Appointments Commission.

Sincerely,

BARRY PETTEN, MHA Conception Bay South
Official Opposition House Leader

Official Opposition Office, 5th Floor, East Block, Confederation Building
P.O. Box 8700, St. John's, NL, Canada • A1B 4J6
Phone: 709-729-3391 • Fax: 709-729-5774

Table of Contents

Submission Letter	1
Table of Contents	2
INTRODUCTION	3
RECOMMENDATIONS	5
• Strengthen the PSC, eliminate the IAC	5
• The alternative: strengthen both the IAC and the PSC	6
• (s.3, s.5) Cabinet should be bound to choose from the roster	6
• (s.6) The IAC should be chosen in a non-partisan process	7
• (s.6) The IAC chair should be chosen in a non-partisan process	7
• (s.6) The IAC rules should be set by a separate non-partisan body	7
• (s.7) Tenure of office should be subject to a bipartisan process	8
• (s.7) Temporary replacements should be subject to a non-partisan process	8
• (s.8) Commissioners should fill the 3-person panels randomly	9
• (s.9) Recommendations should reflect regions and diversity	9
• (s.9) Extenuating circumstances should be clearly defined	9
• (s.10) Longer rosters should be permitted	9
• (s.10) Rosters should be ranked wherever possible	10
• (s.10) Shorter-than-normal rostering should be publicly reported	10
• (s.11, s.12) The PSC should be open and accountable	10
• (s.13) Exemptions should be reported immediately	10
• (s.13) Off-roster appointments should be reported immediately	11
• (s.13) Merit-principle accountability should be the subject of an annual report	11
• (s.14) Lobbying restrictions should be qualified	11
• (s.15) The Schedule should be longer by default	12
• (s.16) The Act should be reviewed more often	12
• (s.19) Other extenuating circumstances should be reported	12
• (s.19) The PSC Act should also require more reporting	13
• (Schedules) The tiering of public bodies should be rational	13
• It's time to enforce a higher standard	13
APPENDIX	14
• Independent Appointments Commission Act	14
• Public Service Commission Act	25
• Terms of Reference	36
• Question Period questions on Bill 1 of 2016	38
• Debate at Second Reading of Bill 1 of 2016	42
• Debate at Committee Stage of Bill 1 of 2016	84
• Debate at Third Reading of Bill 1 of 2016	149
• Resolution to appoint the first IAC	153
• Further comments	166

Introduction

When the Independent Appointments Commission Act was brought forward as Bill 1 in 2016, its stated purpose was indicated in its long title: *An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments*. The Ball administration expanded on this purpose when announcing the initiative in its first Speech from the Throne on March 8, 2016.¹

A Commitment to Openness and Transparency

My Government is committed to openness and transparency. It is only fitting then, to announce that the first Bill My Government will introduce in the House of Assembly, will be an Act to Establish an Independent Appointments Commission and to require a merit-based process for various appointments. This commission will be the first of its kind in Newfoundland and Labrador, taking the politics out of government appointments. We believe that appointments to our agencies, boards and commissions should be merit-based, not politically motivated, as in the past. The Independent Appointments Commission will be non-partisan and screen qualified candidates for Tier 1 agencies, boards, and commissions, including senior executive positions. It will be a much needed level of independent review to the appointments process, clearing a path for the most qualified people to apply, be considered on their merits, and be selected. The Public Service Commission will launch a website detailing membership requirements for all agencies, boards, and commissions and identifying upcoming vacancies.

At the time, the Opposition parties said the legislation, while laudable in its stated purpose, was greatly flawed in its execution. Opposition members attempted to bring forward amendments to address these flaws, but under the rigorous rules of the House that forbid the kinds of complex amendments needed to address the deficiencies, many of these proposals could not even be considered. Although some amendments were allowed, other important proposals remain to be considered. The five-year statutory review of the Act is the ideal opportunity to consider these and other proposals to improve the legislation and the processes it defines.

To summarize the principal concerns we raised about the Act: while it purports to take politics out of political appointments, what it actually does is shield a partisan appointments process behind a façade of meritocracy. Not only does the Cabinet retain the power to make partisan appointments, but its decisions are locked away from public view, cloaked in a veil of legitimacy. The Independent Appointments Commission does not make appointments; it only makes recommendations, which remain secret. If the Cabinet ignores the recommendation roster it has been given by the IAC, no one will be the wiser. There is no reporting process to inform the public whether a person appointed to a role by Cabinet was chosen from the roster developed by IAC on the basis of merit, or instead chosen by Cabinet from outside the IAC roster for partisan reasons. Even the IAC process itself is open to the potential of abuse, since it is the Cabinet that chooses the IAC chair and the IAC chair who decides which IAC commissioners handle which files. The Cabinet also retains the authority to bypass the merit-based process entirely under circumstances the Cabinet deems (for its own reasons) to be urgent or extenuating. In that one set of circumstances, it does have to say eventually that it has skipped the process, but its rationale is never subject to challenge. However, if the Cabinet has gone through the process, read the roster and tossed it out anyway in favour of a friend, it is not required to say anything. The absence of robust accountability mechanisms makes the entire endeavour a charade. The Cabinet can choose to respect merit, or it can choose not to, but no one outside its oath-bound ranks will ever really know – unless things change.

Some of the Opposition's concerns with the Bill were captured in a CBC news article on May 16, 2016²:

PCs propose changes to 'terribly flawed' independent appointments bill: Government house leader says he's open to changes

Peter Cowan · CBC News · Posted: May 16, 2016 4:54 PM NDT

The PCs are proposing 16 changes to the Liberal government's signature independent appointments legislation.

¹ Link: <https://assembly.nl.ca/HouseBusiness/Hansard/qa48session1/16-03-08.htm>

² Link: <https://www.cbc.ca/news/canada/newfoundland-labrador/progressive-conservative-changes-independent-appointments-bill-1.3584640>

"What we have before us in Bill 1 is a terribly flawed piece of legislation," PC MHA Steve Kent told reporters as the bill was debated on Monday.

"It's much like the budget, they should throw it out and start over again. It's just smoke and mirrors."

The Liberals promised during the last election campaign to set up an independent process to appoint people to various government agencies, boards and commissions.

The law as written will establish a five-member commission that will provide cabinet with three names for each vacancy.

Cabinet still has the final decision on who will be appointed and can go outside the suggested list, but will have to disclose that publicly once a year.

"There's nothing independent about it and this commission they're setting up won't even be able to make actual appointments," said Kent.

"It feels very much like we're trying to put lipstick on a pig, to be frank. It's so flawed that it would be better to just start again."

Kent wants the members of the commission to be appointed by the House of Assembly rather than government. He said any time cabinet goes outside the recommendations of the commission the public should be told immediately, rather than once a year.

Government House Leader Andrew Parsons told reporters after question period he hasn't seen the amendments but he'll consider changes the PCs are bringing forward.

"It's a brand new concept, it's not in place anywhere, first of it's kind here, so if we can make it better why not?" Parsons said.

He still defended giving cabinet the final say on who gets appointed.

"You can't give away your ability to make the selection," said Parsons. "That responsibility falls upon us."

Kent asked for the legislation to go to an all-party committee, to be studied clause by clause.

Parsons said he wants the commission set up this spring, saying there are lots of positions that need to be filled.

"This is holding up boards and governance," said Parsons. "I can say just within my own department I'm getting a significant number of letters of people saying 'we need positions filled, when are you going to fill them?'"

What follows are recommendations laid out issue by issue, section by section of the Act.

Recommendations

Strengthen the Public Service Commission, eliminate the Independent Appointments Commission

The Independent Appointments Commission was created in 2016 to do something that the Public Service Commission was already appointed to do. The PSC's stated role and mandate make this clear:³

Role of the Public Service Commission: The Public Service Commission (PSC) is an arm's length agency tasked with the principle statutory role of promotion and protection of merit in public service hiring and in appointments to agencies, boards and commissions (ABCs). It is responsible for ensuring the existence of a professional, non-partisan public service including ABCs. ...

Mandate: The mandate of the PSC is provided by its governing legislation, the Public Service Commission Act (PSC Act). The core mandate is the protection of merit. Merit is a rule of conduct that provides for the recommendation of candidates for a position on the basis of the best demonstration of bona fide levels of required qualifications, knowledge, abilities and personal suitability. One of the primary responsibilities of the PSC is the recommendation of candidates for appointment or promotion to positions within those organizations scheduled to the PSC Act and as well, provincial ABCs that are also scheduled to that Act.

Merit Principles: Merit in staffing is achieved through practices that are seen to be fair, equitable and transparent. Fairness means decisions are made objectively, free from bias, patronage or nepotism. Practices reflect the just treatment of all employees and applicants. Equity means equal access to employment opportunities. Practices are free from systemic and attitudinal barriers and duly consider "reasonable accommodations". Transparency means open communication, without jeopardizing rational confidentiality, between managers and employees or applicants about staffing, its practices and decisions.

Vision: Public Service Excellence through merit, fairness and respect. As an independent and arm's length agency committed to the principles of merit, the PSC will lead, guide and build a professional public service that is inclusive, diverse, respectful and skilled, and will support a healthy and safe workforce.

The *Independent Appointments Commission Act* – which this review is assessing – struggled to define a unique role for the IAC separate from that of the PSC; but the Act did not succeed. The two processes do essentially the same thing in essentially the same way. To avoid the appearance of duplication, the Act arbitrarily divides public bodies into two tiers, giving the IAC responsibility for some and the PSC responsibility for the others. But the barriers between the two tiers are permeable: Cabinet can move a body from one to the other. Why should there be two entities doing the same thing, when the sensible approach would be to affirm and strengthen the role of the PSC?

That begs the question: why did the government create the IAC in the first place? Clearly, it was done for political reasons (because of an election promise), not for sound reasons (when it was only duplicating what already existed).

The duplication is all the more ridiculous in view of the fact that the Cabinet is not bound by the merit-based recommendations of the IAC it has created, or those of the PSC either. So, the government not only duplicated the process: it ensured both would be ineffective. This is not good governance.

We propose that all this work should be done by the Public Service Commission. Even so, the legislation must also be changed to ensure its recommendations have teeth and cannot be ignored, and to provide robust accountability mechanisms that show whether the government is respecting the merit principle.

We recommend that the PSC – an independent, arms-length office – should be responsible for providing merit-based recommendations of candidates for the public offices of all tiers, and the IAC – which will no longer be needed – should be eliminated because the PSC will be doing that work.

³ Link: <https://www.gov.nl.ca/psc/commission/>

The alternative: strengthen both the IAC and the PSC

We recognize that, in undertaking a review of the IAC Act, the Consultant may be reluctant to recommend eliminating the IAC altogether, even if it is the ideal course of action.

The alternative is to strengthen both the IAC and the PSC, both of which are governed by the IAC Act and both of which are subject to the current review. To aid the Consultant in considering the reforms that are needed, this submission will propose changes to the terms of the Act that currently exists. Since our intention is to make the system function more accountably and effectively whether there are two commissions or one, we are proposing reforms that could be applied to the IAC and the PSC individually, or adapted to apply to a single merged entity.

Our recommendations focus on mirroring the IAC and the PSC to a greater extent. When both commissions are required to apply the merit-based approach in making recommendations for appointments, why should there be differences in the ways they are constituted and the ways they function? Why shouldn't they mirror one another and function entirely in tandem with one another, under the same rules? What is the justification for the differences? What is the justification for placing a body in one Schedule rather than the other? Isn't the entire point to ensure that all appointments to all public bodies are subject to the merit principle? Should the merit principle be applied more robustly for candidates for some roles than for others? That wouldn't make sense.

If the IAC and the PSC are to remain distinct, then because their functions mirror each other's, it makes sense to have the two commissions mirror one another in other ways, with a tougher set of accountability mechanisms that govern both the IAC and the PSC, ensuring both of them uphold the strictest standards. The Cabinet should be bound to abide by the merit-based recommendations of both the IAC and the PSC, and the Cabinet must be publicly tested to ensure they are doing just that.

The following recommendations address the IAC Act in its current form, section by section, presuming there will continue to be two separate entities – the IAC and the PSC, working together.

(s.3, s.5) Cabinet should be bound to choose from the roster

If the government is sincere in wanting candidates for appointments to be judged on merit, then it should give this legislation the teeth it requires. If the government has a candidate in mind, it should allow an independent body to assess the merits of that candidate for the role in question. If it is concerned the independent body may overlook qualifications that make a candidate ideal for a post, then it should support processes that will ensure the independent body is giving proper weight to those kinds of qualifications. If the government is not happy with the roster of candidates the independent body has provided, it could support measures that require the independent body to do more work. If it is concerned the rosters may be too short, it can support longer rosters. If it is concerned the roster does not rank those listed, it can support changes that require the independent body to provide rankings. All these things can be achieved by way of legislation and related measures. However, giving the Cabinet the discretion to dispense with the roster entirely makes a sham of the merit-based process.

Section 3 says the purpose of the Act is to “require a merit-based process for appointments”, but it does not say the Act’s purpose is to “require that appointments be made on the basis of merit-based processes”. There is a big difference between the two. It is one thing to require a merit-based process while retaining the discretion to ignore its results; it is quite another to bind oneself to the process. Here is the current wording of section 3.

Purpose

3. The purpose of this Act is to
 - (a) require a merit-based process for appointments; and
 - (b) establish an independent commission to provide recommendations for appointments in accordance with that process.

Paragraph (a) should be revised to bind the government to ensure appointments are actually made on the basis of merit-based processes.

Section 5 defines the power the Cabinet currently retains. It currently reads:

Effect of requirement to consider recommendation

5. Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4 shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

We believe this “notwithstanding clause” makes a mockery of the Act and should instead affirm the Cabinet’s commitment to an independent, objective process for determining the merit of candidates for appointments.

(s.6) The IAC should be chosen in a non-partisan process

Process matters. Appearances matter. If the Independent Appointments Commission is to be truly independent, then its appointment and all other decisions about its composition should be made through non-partisan processes. The ideal mechanism is an all-party process, involving a select committee of the House of Assembly and the House itself by way of resolution. Subsection 6(3) currently reads as follows:

Commission established

6. (3) The commission shall consist of a minimum of 5 members and a maximum of 7 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly.

At the outset in 2016, it would have been preferable to say: The commission shall consist of 5-7 members selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly passed by a double majority of members on the government side and the opposition side of the House; and the names on that resolution shall be provided by an all-party select committee of the House of Assembly which shall receive, from the Public Service Commission, recommendations that are determined on a merit-based process. In any event, the initial IAC was chosen years ago under the process defined in the current Act, so our focus now turns to new appointments, reappointments and removals, as defined in section 7.

(s.6) The IAC chair should be chosen in a non-partisan process

If the IAC is to be truly independent, its chair should be appointed in a process that is non-partisan. If the Cabinet is to do the appointing, it must be bound to the choice of the non-partisan body. Subsection 6(4) of the Act currently reads as follows:

Commission established

6. (4) The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson.

This should be amended to say an all-party select committee of the House of Assembly shall designate one of the members of the commission to be chairperson and that select committee shall designate a replacement chairperson in the event that the chairperson's position becomes vacant.

(s.6) The IAC rules should be set by a separate non-partisan body

Subsection 6(7) of the Act currently reads as follows:

Commission established

6. (7) The commission shall adopt rules of procedure and keep records of its proceedings.

The IAC should not make its own rules, nor should the Cabinet. If the IAC processes are to be truly independent and reliable, they should be set by a separate, non-partisan body. The IAC should be able to propose rules, but a separate body should decide them. There should also be a consistent and comprehensive record-keeping process in place to cover all IAC work. We propose an amendment that

would read: The commission shall keep comprehensive records of its proceedings and shall propose rules of procedure to the select committee which may amend the proposed rules and shall direct the commission as to the rules of procedure which will apply to the commission.

(s.7) Tenure of office should be subject to a bipartisan process

Currently, under section 7 of the Act, reappointments of IAC commissioners are made by the Cabinet on a resolution of the House. Removal of an IAC commissioner is made by the Cabinet on a resolution of the House. New commissioners are appointed to the IAC after the IAC reviews potential candidates and develops a roster for Cabinet to consider; and the Cabinet makes the appointments on resolutions of the House.

For comparison purposes, consider the process for reappointing the Information and Privacy Commissioner under subsection 87(2) of the *Access to Information and Protection of Privacy Act, 2015*, which states: "The Lieutenant-Governor in Council may, with the approval of a majority of the members on the government side of the House of Assembly and separate approval of a majority of the members on the opposition side of the House of Assembly, re-appoint the [Information and Privacy] commissioner for one further term of 6 years."

Considering the powerful role of IAC commissioners in assessing the merits of candidates for all sorts of offices throughout the government, special care should be taken to ensure the independence of each commissioner.

Section 7 of the IAC Act currently reads, in part, as follows:

Tenure of office

7. (1) A commissioner shall be appointed for a term of 3 years, and may be reappointed for one additional 3 year term, to be served consecutively.
(2) Where a commissioner is reappointed under subsection (1), he or she shall be reappointed in the manner referred to in subsection 6(3).
(3) A commissioner holds office during good behaviour, but may be removed by the Lieutenant-Governor in Council on resolution of the House of Assembly.
(5) With the exception of the first 5 members appointed to the commission and the reappointment of those members, if granted, this Act applies to the appointment of the members of the commission.

We propose making all decisions of the House of Assembly to appoint, reappoint or remove IAC commissioners subject to a double majority – in other words, the approval of a majority of the members on the government side of the House of Assembly and separate approval of a majority of the members on the opposition side of the House of Assembly – and Cabinet should be bound to abide by the decision of the House.

(s.7) Temporary replacements should be subject to a non-partisan process

Subsection 7(4) of the current Act reads as follows:

Tenure of office

7. (4) Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council may appoint a person to act in his or her place, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting.

We propose a process that is independent from Cabinet. Instead of saying the "Lieutenant-Governor in Council may appoint a person to act in his or her place", the Act should say: then (a) the Public Service Commission, using a merit-based process, shall recommend 3 persons to act in place of that commissioner; (b) an all-party select committee of the House of Assembly shall receive those recommendations from the Public Service Commission and designate a person to act in place of that commissioner; and (c) the Lieutenant-Governor in Council shall appoint that person to act in place of that commissioner.

(s.8) Commissioners should fill the 3-person panels randomly

Section 8 of the Act currently reads as follows:

Panel

8. The chairperson of the commission shall appoint a panel of 3 commissioners to review potential appointees for each appointment.

To remove the possibility of bias in these processes, it would be preferable if the commissioners could be assigned to their 3-person panels randomly, in a way that evens out the workload.

(s.9) Recommendations should reflect regions and diversity

Subsection 9(1) of the Act currently reads as follows:

Recommendations of commission

9. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

There are many ways of defining the merits of a candidate because there are many ways of defining the requirements of a role. It is generally recognized in the modern age that, for a government to do its work properly, the leadership ranks should reflect the diversity of the society. When a government lacks diversity in leadership roles in terms of regions, indigeneity, gender, disability and other distinguishing factors, people have a sense of not being represented, reflected or properly heard around the decision-making table. The commission responsible for recommending candidates for appointment must be sensitive to this need, and work to ensure greater diversity in the rosters they bring forward. It may therefore be appropriate to add, after the word process, the words: and those recommendations shall accurately reflect the province's society as a whole in terms of gender balance, diversity and regional representation.

(s.9) Extenuating circumstances should be clearly defined

Section 9 of the Act currently reads, in part, as follows:

Recommendations of commission

9. (2) Subsection (1) does not apply to

(b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the minister responsible for the administration of this Act shall report on the circumstances of that appointment in the manner required by section 13.

While there are surely situations that would qualify as "urgent or extenuating circumstances," the Act gives Cabinet the discretionary power to use this caveat to bypass the merit-based appointments process. It is not beyond the realm of possibility that the Cabinet could delay an action until the eleventh hour in order to have this excuse to bypass the process. There should be a working definition or threshold to qualify this exception. There should also be clear and immediate accountability mechanisms that expose such actions to public scrutiny. If the merit-based process is bypassed, the appointee should fill the role on an acting basis until the merit-based process can be followed, perhaps only for 6 months.

(s.10) Longer rosters should be permitted

Section 10 of the Act currently reads as follows:

Duties and powers of commission

10. (1) The commission shall

- (a) together with the Public Service Commission, administer a merit-based process for appointments; and
- (b) recommend 3 persons for those appointments.

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

The IAC should not be limited to recommending a maximum of 3 candidates for an appointment. Perhaps 3 candidates would be an appropriate aspirational target, but particularly in cases where candidates offer different arrays of suitable qualities that make ranking difficult and arbitrary, longer rosters should be permissible.

(s.10) Rosters should be ranked wherever possible

Wherever possible, the IAC should rank the candidates on a roster, showing which candidates they find to be particularly outstanding from a merit perspective, with respect to the role under consideration.

(s.10) Shorter-than-normal rostering should be publicly reported

When the IAC process results in a roster with fewer candidates than 3, that fact should be reported, not just to the Cabinet or minister, but to the public via the Speaker of the House of Assembly, who shall table the information that the roster is short (but the report does not need to reveal the names on the roster). It is in the public interest to know that the IAC has not found enough suitable candidates for a role. The public may wish to challenge the IAC on its work. Others may wish to step forward. The IAC may need to restart the process, depending on the circumstances. Some roles may be particularly difficult to fill because of the stringent requirements, but it should be for the public to decide whether that is acceptable.

(s.11, s.12) The PSC should be open and accountable

The Public Service Commission is known for doing outstanding work. Proper accountability will ensure this continues to be the case. The current IAC Act requires the PSC to support the IAC so it can function properly. Sections 11 and 12 read as follows:

Support of commission

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

Duties of Public Service Commission

12. The Public Service Commission shall
(a) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist;
(b) solicit and accept applications and expressions of interest for appointments on an ongoing basis;
(c) create and maintain a list of potential appointees based on paragraphs (a) and (b); and
(d) further to a merit-based process, provide to the commission a list of all potential appointees, including a list of recommendable potential appointees.

If rosters are insufficiently diverse or otherwise inadequate, there should be a mechanism for accounting for this, educating officials on what is required, and repeating the merit-based process to ensure the final rosters are as they should be. Exposure of such problems should not wait up to five years until a new statutory review is undertaken. The mechanisms should be more responsive if serious problems emerge. It may be appropriate to give a commission chair the authority to report to the House of Assembly on any serious concerns about the process.

(s.13) Exemptions should be reported immediately

Section 13 defines the reporting processes under the Act. The Act requires much too little reporting. The current section reads as follows:

Report required

13. (1) The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation of this Act under the authority of paragraph 9(2)(b).

(2) Where the House of Assembly is not in session at the time a report is required to be presented under subsection (1), section 19.1 of the House of Assembly Act applies as if the report were a report of an officer of the House of Assembly.

Paragraph 9(2)(b) is about appointments which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances. It is not sufficient to make such reports annually. Every such appointment should be publicly reported to have been an exception, immediately when it is made, if not before.

(s.13) Off-roster appointments should be reported immediately

If the Cabinet or a minister disregards the IAC roster and appoints someone else, that fact should be reported publicly. The failure to require this is one of the fundamental shortcomings of this legislation. It makes a mockery of the entire undertaking if the Cabinet can discard the merit-based recommendations without public accountability.

Therefore, a further subsection should be added to section 13 to the effect that: The Cabinet or the minister, as the case may be, shall report immediately after an appointment is made (or before it is formalized) and annually to the House of Assembly every appointment to an entity listed in the Schedule that was not an appointment recommended by the commission. These instances should also be tallied in an annual report of the independent body or an independent oversight officer.

Similarly, since there are also PSC rosters for candidates for certain bodies, all instances of discarding the roster should be reported. A further subsection should be added to section 13 to the effect that: The minister shall report immediately after an appointment is made (or before it is formalized) and annually to the House of Assembly those appointments included in Schedule C of the Public Service Commission Act that were not an appointment recommended by the Public Service Commission.

(s.13) Merit-principle accountability should be the subject of an annual report

If the purpose of this Act is to ensure the merit principle guides public appointments, then there must be an accountability mechanism to determine whether the process lives up to the promise. Otherwise, the public cannot know whether these processes are making a real difference or just providing political cover.

A further subsection should be added to section 13 to the effect that: The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in the Schedule to determine if the merit principle was respected and its review shall form a part of the report made under this section.

(s.14) Lobbying restrictions should be qualified

It is understandable that IAC commissioners and staff should not be directly lobbied by those who favour a certain candidate for a post. However, the prohibition on indirect lobbying may be too broad. Section 14 of the Act currently reads as follows:

Attempt to influence

14. (1) A person shall not, directly or indirectly, try to influence improperly the commission or an employee of or assistant to the commission with respect to the recommendation of himself or herself or another person for an appointment under this Act.
(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

In the modern information age, public advocacy takes innumerable forms, including social media and talk shows. If a public office becomes vacant and someone believes such-and-such a person would be an ideal candidate for the post, should they be prohibited from saying so? Who is to know if a commissioner or staff member is able to access this public communication and might feel pressured? If a Member of the House of Assembly were to sing the praises of a constituent in the House of Assembly, their actions would be protected by parliamentary privilege; but a member of the public might be condemned for

making a similar statement. Who is to say what they are doing is trying to influence improperly, or something more acceptable? Perhaps this section should be qualified in some way to recognize that it is not intended to limit the proper exercise of free speech in an open and democratic society.

This reasoning would also apply to section 27 of the PSC Act, which was added by subsection 19(4) of the IAC Act.

(s.15) The Schedule should be longer by default

Currently, section 15 of the Act reads as follows:

Schedule

15. (1) When the House of Assembly is not in session, the Lieutenant-Governor in Council may, by order, amend the Schedule by adding to it but not deleting from it, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.
(2) An order made under subsection (1) is subordinate legislation for the purpose of the Statutes and Subordinate Legislation Act.

It is difficult to imagine a situation where, when the House of Assembly is closed, the Cabinet suddenly becomes aware that a public body should be subject to the IAC Act. What would be the rationale, if the IAC and the PSC have parallel, complementary and equally robust processes? Perhaps the Schedule of the Act should be longer by default, so the Cabinet is not moving entities from one to the other in an arbitrary manner.

(s.16) The Act should be reviewed more often

Section 16 of the Act currently reads as follows:

Review

16. (1) The minister responsible for the administration of this Act shall, every 5 years, perform a review of this Act and consider the areas in which it may be improved and report his or her findings to the Lieutenant-Governor in Council.
(2) Within 3 days of the submission of the report under subsection (1) the minister shall
(a) table the report in the House of Assembly; or
(b) where the House of Assembly is not then sitting, table the report as if it were a report of an officer of the House of Assembly under section 19.1 of the House of Assembly Act.

It is clear from the 2016 debate in the House of Assembly that this legislation was highly contentious, with Opposition members publicly stating it was a sham. It is shocking that so much time has passed for the performance of the Act to be tested. Fundamental changes are needed. If these changes are made – and perhaps even more so if they are not – this Act should be reviewed at least every two years to determine whether or not it is meeting expectations, so any needed reforms can be made quickly. Otherwise, we risk having public office holders who are not properly qualified for their roles because the merit-based appointments process is fatally flawed.

(s.19) Other extenuating circumstances should be reported

Subsection 19(4) of the current Act amended the *Public Service Commission Act* to add eight new sections. One of those included a new subsection 21(3), which reads as follows (similar to section 9 above):

Appointments to agencies, boards and commissions

21. (3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17.

As with section 9 of the IAC Act, all such exceptions should be reported immediately. The subsection could be amended to read like this, or something similar: Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b) and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more

than 6 months unless the appointment has been confirmed through a merit-based process, the circumstances of that appointment shall be included in the report required under section 17.

(s.19) The PSC Act should also require more reporting

As noted, the IAC Act includes amendments to the PSC Act, so both are subject to this review. As noted with respect to section 13 above, an annual report is needed to determine whether the merit-principle is actually being applied when public appointments are made following recommendations of the IAC. The Public Service Commission should produce a similar annual report with respect to the Schedule C list of bodies that the IAC Act adds to the PSC Act. Section 19(4) of the IAC Act should be amended to add a new subsection 21(4) to the PSC Act stating: The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form a part of the report made under section 17.

(Schedules) The tiering of public bodies should be rational

Under the IAC Act (paragraph 2(a), subsection 6(2) and elsewhere), the IAC is responsible for providing merit-based recommendations of candidates for appointment to bodies defined in the Schedule of the IAC Act. Under section 10, the IAC is to administer the process along with the PSC; and under section 11, the PSC is to support the IAC on this. Under section 12, the PSC must solicit applications and route the information to the IAC. The Schedule of the IAC Act lists three "Entities" and a range of "Statutory Appointments" (33 titles listed) for which it is responsible.

Under section 19 of the IAC Act, amendments to the PSC Act require the PSC to (1) provide merit-based recommendations to Cabinet for appointments to bodies listed in Schedule C of the PSC Act, as added to the PSC Act by the IAC Act; and (2) support the IAC as the IAC fulfils its obligations for the Schedule for the IAC Act.

Under section 15 of the IAC Act, the Cabinet can add bodies to the Schedule when the House is closed, but not remove them. Under section 24 of the PSC Act (as added by subsection 19(4) of the IAC Act), the Cabinet can amend Schedule C of the PSC Act by Regulation.

Schedule C of the PSC Act lists 30 entities for which the PSC is responsible for providing merit-based recommendations, and numerous "Statutory Appointments".

In 2016, the Opposition proposed that, if the IAC process is truly meant to be more robust, then the 30 entities listed in the PSC Act's Schedule C should be moved to the Schedule of the IAC Act and fall under the watch of the IAC. Various "Statutory Appointments" also looked like matters the IAC could shoulder.

However, there is no reason the IAC and PSC processes should differ in robustness. If public bodies are going to be distinguished by "tiers" and assigned to one commission rather than the other, these distinctions should be rational, not arbitrary – assuming that rational distinctions are even possible. We believe that, on closer inspection, it will be difficult to justify dividing them at all. The merit principle should be applied equally to all candidate review processes, and no public body is less deserving of candidates with merit than any other.

It's time to enforce a higher standard

In summary, we believe in the principle of making merit-based appointments to all public roles, binding the government to adhere to this principle, and establishing robust accountability and reporting mechanisms so the public can see whether the reality reflects the intention, and can hold its government to account.

Appendix

Independent Appointments Commission Act⁴

SNL2016 CHAPTER I-2.1

INDEPENDENT APPOINTMENTS COMMISSION ACT

Amended:

Schedule Amended:

36/16 s2; 47/16 s2; 2016 c42;

2016 cP-41.001 s31;

2016 cR-15.2 s32; 2016 cS-13.002 s25; 2017 c29; 2018 c3 s4;

2018 cC-5.2 s28; 2018 cI-7.1 s26; 2018 c 38 s11; 2019 c10 s5;

2019 c27 s3; 2019 cO-6.1 s50; 2021 cA-22.1 s45; 2022 cP-30.1 s51

CHAPTER I-2.1

AN ACT TO ESTABLISH AN INDEPENDENT APPOINTMENTS COMMISSION AND TO REQUIRE A MERIT-BASED PROCESS FOR VARIOUS APPOINTMENTS

(Assented to May 24, 2016)

Analysis

- [1. Short title](#)
- [2. Definitions](#)

PART I

PURPOSE AND EFFECT

- [3. Purpose](#)
- [4. Recommendations to be considered](#)
- [5. Effect of requirement to consider recommendation](#)

PART II

INDEPENDENT APPOINTMENTS COMMISSION

- [6. Commission established](#)
- [7. Tenure of office](#)
- [8. Panel](#)
- [9. Recommendations of commission](#)
- [10. Duties and powers of commission](#)
- [11. Support of commission](#)
- [12. Duties of Public Service Commission](#)

PART III

GENERAL

- [13. Report required](#)
- [14. Attempt to influence](#)
- [15. Schedule](#)
- [16. Review](#)
- [17. Protection from liability](#)
- [18. Transitional](#)

- [19. RSNL1990 cP-43 Amdt.](#)
- [20. SNL2006 cR-7.1 Amdt.](#)
- [21. NLR 18/08 Amdt.](#)
- [22. SNL2005 cR-15.1 Amdt.](#)
- [23. NLR 59/03 Amdt.](#)
- [24. RSNL1990 cW-11 Amdt.](#)

[Schedule](#)

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

⁴ Link: <https://www.assembly.nl.ca/legislation/sr/statutes/i02-1.htm>

Short title

1. This Act may be cited as the *Independent Appointments Commission Act* .

[2016 cI-2.1 s1](#)

Definitions

2. In this Act

- (a) "appointment" means the appointment of a person under the authority of a statutory provision or to an entity listed in the Schedule;
- (b) "commission" means the Independent Appointments Commission established in section 6;
- (c) "merit-based process" means a process established by the commission in consultation with the Public Service Commission for the purpose of executing their respective duties under this Act;
- (d) "minister" means the minister
 - (i) responsible for the administration of the Act under the authority of which an appointment may be made, or
 - (ii) to whom an entity is accountable further to its establishment;
- (e) "minister responsible for the administration of this Act" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (f) "Public Service Commission" means the commission appointed under section 5 of the *Public Service Commission Act* .

[2016 cI-2.1 s2](#)

PART I
PURPOSE AND EFFECT

Purpose

3. The purpose of this Act is to

- (a) require a merit-based process for appointments; and
- (b) establish an independent commission to provide recommendations for appointments in accordance with that process.

[2016 cI-2.1 s3](#)

Recommendations to be considered

4. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

[2016 cI-2.1 s4](#)

Effect of requirement to consider recommendation

5. Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4 shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

[2016 cI-2.1 s5](#)

PART II
INDEPENDENT APPOINTMENTS COMMISSION

Commission established

6. (1) The Independent Appointments Commission is established.

(2) The commission is an independent, non-partisan body whose mandate is to provide non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process.

(3) The commission shall consist of a minimum of 5 members and a maximum of 7 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly.

(4) The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson.

(5) The members of the commission may elect from among their number one person as vice-chairperson who may act in the absence of the chairperson.

(6) A commissioner shall not be remunerated for his or her duties under this Act but a commissioner shall be paid the expenses actually and reasonably incurred by him or her in carrying out those duties in accordance with Treasury Board guidelines.

(7) The commission shall adopt rules of procedure and keep records of its proceedings.

(8) Acts done by the commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the commission, be as valid as if the defect had not existed.

[2016 cI-2.1 s6, 2017 c29 s1](#)

Tenure of office

7. (1) A commissioner shall be appointed for a term of 3 years, and may be reappointed for one additional 3 year term, to be served consecutively.

(2) Where a commissioner is reappointed under subsection (1), he or she shall be reappointed in the manner referred to in subsection 6(3).

(3) A commissioner holds office during good behaviour, but may be removed by the Lieutenant-Governor in Council on resolution of the House of Assembly.

(4) Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council may appoint a person to act in his or her place, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting.

(5) With the exception of the first 5 members appointed to the commission and the reappointment of those members, if granted, this Act applies to the appointment of the members of the commission.

(6) A commissioner shall, when appointed, take an oath that he or she will be impartial in the carrying out of duties under this Act.

[2016 cI-2.1 s7; 2017 c29 s2](#)

Panel

8. The chairperson of the commission shall appoint a panel of 3 commissioners to review potential appointees for each appointment.

[2016 cI-2.1 s8](#)

Recommendations of commission

9. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

(a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with this Act; or

(b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the minister responsible for the administration of this Act shall report on the circumstances of that appointment in the manner required by section 13.

[2016 cI-2.1 s9](#)

Duties and powers of commission

10. (1) The commission shall

(a) together with the Public Service Commission, administer a merit-based process for appointments; and

(b) recommend 3 persons for those appointments.

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

[2016 cI-2.1 s10](#)

Support of commission

11. (1) The Public Service Commission shall support and advise the commission in the execution of its duties and the conduct of its business.

(2) In addition to subsection (1), the Public Service Commission shall do those other things that are requested by the commission, where those things are required by the commission in the exercise of its duties under this Act.

[2016 cI-2.1 s11](#)

Duties of Public Service Commission

12. The Public Service Commission shall

- (a) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist;
- (b) solicit and accept applications and expressions of interest for appointments on an ongoing basis;
- (c) create and maintain a list of potential appointees based on paragraphs (a) and (b); and
- (d) further to a merit-based process, provide to the commission a list of all potential appointees, including a list of recommendable potential appointees.

[2016 cl-2.1 s12](#)

PART III GENERAL

Report required

13. (1) The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation of this Act under the authority of paragraph 9(2)(b).

(2) Where the House of Assembly is not in session at the time a report is required to be presented under subsection (1), section 19.1 of the *House of Assembly Act* applies as if the report were a report of an officer of the House of Assembly.

[2016 cl-2.1 s13](#)

Attempt to influence

14. (1) A person shall not, directly or indirectly, try to influence improperly the commission or an employee of or assistant to the commission with respect to the recommendation of himself or herself or another person for an appointment under this Act.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

[2016 cl-2.1 s14](#)

Schedule

15. (1) When the House of Assembly is not in session, the Lieutenant-Governor in Council may, by order, amend the Schedule by adding to it but not deleting from it, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.

(2) An order made under subsection (1) is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

[2016 cl-2.1 s15](#)

Review

16. (1) The minister responsible for the administration of this Act shall, every 5 years, perform a review of this Act and consider the areas in which it may be improved and report his or her findings to the Lieutenant-Governor in Council.

- (2) Within 3 days of the submission of the report under subsection (1) the minister shall
 - (a) table the report in the House of Assembly; or
 - (b) where the House of Assembly is not then sitting, table the report as if it were a report of an officer of the House of Assembly under section 19.1 of the *House of Assembly Act*.

[2016 cl-2.1 s16](#)

Protection from liability

17. A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

[2016 cl-2.1 s17](#)

Transitional

18. Nothing in this Act affects an appointment made before the coming into force of this Act.

[2016 cl-2.1 s18](#)

19. (1) Section 3 of the *Public Service Commission Act* is amended by adding immediately after subsection (1) the following:

(1.1) This Act applies to the appointments under the statutory authority or to entities listed in Schedule C in the manner referred to in sections 20 to 27.

(2) Subsection 4(1) of the Act is amended by deleting the phrase "This Act does not apply to" and substituting the phrase "Except as provided in sections 20 to 27, this Act does not apply to".

(3) The Act is amended by adding immediately after section 18 the following:

Protection from liability

18.1 A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

(4) The Act is amended by adding immediately after section 19 the following:

Application of certain provisions

20. (1) This section and sections 21 to 27 apply only to

- (a) the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C; and
- (b) to appointments listed in the schedule to the *Independent Appointments Commission Act*.

(2) In the case of a conflict between the other provisions of this Act and this section and sections 21 to 27, this section and sections 21 to 27 apply.

(3) In this section and sections 21 to 27

- (a) "appointment", except as otherwise provided, means the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C;
- (b) "merit-based process" means a process established by the commission for the purpose of executing its duties under sections 21 to 27; and
- (c) "minister", notwithstanding paragraph 2(i), means the minister
 - (i) responsible for the administration of the Act under the authority of which an appointment may be made, or
 - (ii) to whom an entity is accountable further to its establishment.

Appointments to agencies, boards and commissions

21. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

- (a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with sections 21 to 27; or
- (b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17.

Recommendations to be considered

22. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

Effect of requirement to consider recommendation

23. Notwithstanding section 22, the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

Schedule C

24. (1) The Lieutenant-Governor in Council may, by order, amend Schedule C.

(2) An order made under this section is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

Additional powers and duties of commission

25. In addition to the other powers and duties of the commission under this Act, the commission may,

- (a) with respect to appointments,
 - (i) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist,
 - (ii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,
 - (iii) create and maintain a list of potential appointees based on subparagraphs (i) and (ii), and
 - (iv) further to a merit-based process, provide to the Lieutenant-Governor in Council or the minister, as appropriate, recommendations for appointments; and
- (b) with respect to appointments as defined in the *Independent Appointments Commission Act*,
 - (i) support and advise the commission established under the *Independent Appointments Commission Act* in the manner contemplated by that Act,
 - (ii) advertise and otherwise effectively distribute information respecting appointments and receive applications where vacancies exist,
 - (iii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,
 - (iv) create and maintain a list of potential appointees based on subparagraphs (ii) and (iii), and
 - (v) further to a merit-based process, provide to the commission established under the *Independent Appointments Commissions Act* a list of all potential appointees, including a list of recommendable potential appointees.

Current appointments unaffected

26. Nothing in sections 20 to 25 affects an appointment made before the coming into force of this section.

Attempt to influence commission

27. (1) A person shall not, directly or indirectly, try to influence improperly the commission, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person

- (a) to an appointment; or
- (b) to an appointment as defined in the *Independent Appointments Commission Act*.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

(5) The Act is amended by adding immediately after Schedule B the following:

Schedule C

Entities

Agreement on Internal Trade Dispute Screener
Agreement on Internal Trade Roster of Panelists
Atlantic Lotto Corporation with respect to provincial representatives
C.A. Pippy Park Golf Course Limited with respect to ministerial appointments
Dental Monitoring Committee
Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees
Municipal Assessment Agency with respect to taxpayer representatives
Newfoundland and Labrador Film Development Corporation
Newfoundland and Labrador Historic Commemorations Board
Newfoundland and Labrador Sports Centre Inc. with respect to 6 members and a chairperson appointed by Lieutenant-Governor in Council
Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson
Premier's Youth Advisory Committee
Provincial Advisory Council on Aging and Seniors
Provincial Advisory Council on Mental Health and Addictions
Provincial Advisory Council on the Inclusion of Persons with Disabilities
Provincial Cancer Control Advisory Committee
Provincial Council of the Rural Secretariat
Provincial Wellness Advisory Council
Regional Council of the Rural Secretariat - Avalon Peninsula
Regional Council of the Rural Secretariat - Burin Peninsula
Regional Council of the Rural Secretariat - Clarenville-Bonavista
Regional Council of the Rural Secretariat - Corner Brook-Rocky Harbour
Regional Council of the Rural Secretariat - Gander-New-Wes-Valley
Regional Council of the Rural Secretariat - Grand Falls-Windsor-Baie Verte-Harbour Breton
Regional Council of the Rural Secretariat - Labrador Region
Regional Council of the Rural Secretariat - St. Anthony-Port au Choix Region
Regional Council of the Rural Secretariat - Stephenville-Port aux Basques Region
Torngat Joint Fisheries Board with respect to the members appointed by the provincial minister
Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister
URock Volunteer Award Selection Board

Statutory Appointments

Apprenticeship and Certification Act, subsection 5(1)
Architects Act, 2008, subsections 6(1) and 15(4) with respect to ministerial appointments
Arts Council Act, section 6
Atlantic Provinces Harness Racing Commission Act, subsection 5(1)
Atlantic Provinces Special Education Authority Act (Nova Scotia), paragraph 5(2)(b)
Buildings Accessibility Act, section 18 with respect to Lieutenant-Governor in Council appointments

Canadian Centre for Occupational Health and Safety Act, section 4 with respect to provincial appointments

Centre for Health Information Act, 2018, subsections 7(2) and 13(1)

Chartered Professional Accountants and Public Accountants Act, subsections 5(1) and 28(4) with respect to ministerial appointments

Chiropractors Act, 2009, subsections 5(1) and 21(4)

Credit Union Act, 2009, *Credit Union Regulations, 2009*, subsection 40(1) with respect to ministerial appointments

Criminal Code, section 672.38

Crop Insurance Act, section 3

Dental Act, 2008, paragraphs 5(2)(c) and 27(6)(b)

Denturists Act, 2005, subsections 4(1) and 14(1) with respect to ministerial appointments

Dietitians Act, subsections 6(1) and 22(4) with respect to ministerial appointments

Dispensing Opticians Act, 2005, subsections 5(1) and 13(4) with respect to ministerial appointments

Economic Diversification and Growth Enterprises Act, subsection 6(1)

Embalmers and Funeral Directors Act, 2008, subsections 4(1) and 16(3) with respect to ministerial appointments

Endangered Species Act, subsection 6(3)

Engineers and Geoscientists Act, 2008, subsections 5(1) and 21(4) with respect to ministerial appointments

Fatalities Investigations Act, subsection 13.1

Financial Services Appeal Board Act, section 3

Fish Processing Licensing Board Act, section 5

Fishing Industry Collective Bargaining Act, section 19.1

Forestry Act, section 58

Geographical Names Board Act, section 3

Government Money Purchase Pension Plan Act, section 12.1

Government Purchasing Agency Act, subsection 7(1)

Health Professions Act, subsection 9(1) and paragraph 35(4)(c) with respect to ministerial appointments

Health Research Ethics Authority Act, paragraph 3(2)(d)

Hearing Aid Practitioners Act, 2005, subsections 4(1) and 13(4) with respect to ministerial appointments

Historic Resources Act, section 22

Human Rights Act, 2010, section 36

Income and Employment Support Act, section 42

Labrador Inuit Land Claims Agreement, Part 12.8.2, 13.10.2

Lands Act, St. John's Urban Region Agriculture Development Area Regulations, subsections 3(3) and 7(2)

Law Society Act, 1999, section 42(4) with respect to ministerial appointments and paragraph 65(2)(b)

Licensed Practical Nurses Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Livestock Insurance Act, section 3

Massage Therapy Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Medical Act, 2011, paragraph 9(1)(b) and subsection 40(4) with respect to ministerial appointments

Medical Care Insurance Act 1999, subsection 15(7) with respect to those persons not nominated by the medical or dental associations

Medical Care Insurance Act, 1999 , Physicians and Fee Regulations, paragraph 15(1)(b)

Mental Health Care and Treatment Act, section 57

Mineral Act, section 37

Muskrat Falls Project Land Use and Expropriation Act, Muskrat Falls Project Land Use and Expropriation Regulations, section 16

Natural Products Marketing Act, section 3

Natural Products Marketing Act, Egg Scheme, 2000, subsection 4(4)

Natural Products Marketing Act, Milk Scheme, 1998, subsection 4(6)

Natural Products Marketing Act, Newfoundland and Labrador Chicken Marketing Scheme, subsection 4(1.1)

Occupational Health and Safety Act, section 12

Occupational Therapists Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Optometry Act, 2012, subsections 9(1) and 27(4) with respect to ministerial appointments

Order of Newfoundland and Labrador Act, paragraph 12(1)(c)

Petroleum and Natural Gas Act, Royalty Regulations, 2003, paragraph 81(6)(b)

Pharmaceutical Services Act, section 42

Pharmaceutical Services Act, Pharmaceutical Services Regulations, paragraphs 8(2)(d) and (e)

Pharmacy Act, 2012, subsections 6(1) and 36(4) with respect to ministerial appointments

Physiotherapy Act, 2006, subsections 5(1) and 16(4) with respect to ministerial appointments

Private Training Institutions Act, subsection 4(3)

Professional Fish Harvesters Act, section 5, subsection 15(1) and section 20

Provincial Court Act, 1991, paragraphs 16(2)(b), 19(1)(c) and 20(1)(c)

Psychologists Act, 2005, subsections 4(1) and 15(4) with respect to ministerial appointments

Public Libraries Act, paragraph 3(c)

Public Safety Act, subsection 25(1)

Queen's Counsel Act, subsection 7(2) with respect to appointments not recommended by benchers

Regional Services Board Act, 2012, subsection 6(2)

Registered Nurses Act, 2008, paragraph 6(1)(b) and subsection 19(5) with respect to ministerial appointments

Royal Newfoundland Constabulary Act, 1992, subsection 29(1)

Social Workers Act, subsection 12(1) and paragraph 24(4)(c)

Student Financial Assistance Act, Student Financial Assistance Administration Regulations, paragraphs 18(1)(b) and (e)

Teachers' Collective Bargaining Act, subsection 10(1)

Teachers Training Act, section 3

Urban and Rural Planning Act, 2000, subsection 41(1)

Veterinary Medical Act, 2004, subsections 7(1) and 33(1) with respect to ministerial appointments

Wilderness and Ecological Reserves Act, subsection 7(1)

[2016 cI-2.1 s19; 2018 c3 s4; 2018 cC-5.2 s28](#)

SNL2006 cR-7.1 Amdt.

20. (1) Subsections 8(1), (2) and (5) of the *Regional Health Authorities Act* are amended by deleting the word "minister" wherever it occurs and substituting the words "Lieutenant-Governor in Council".

(2) Subsection 14(1) of the Act is repealed and the following substituted:

CEO of a board

14. (1) The Lieutenant-Governor in Council shall appoint, after consultation with the board, a chief executive officer for the authority and shall determine the terms and conditions of employment of that chief executive officer.

[2016 cI-2.1 s20](#)

NLR 18/08 Amdt.

21. Subsection 3(3) of the *Regional Health Authorities Regulations*, Newfoundland and Labrador Regulations 18/08, published under the *Regional Health Authorities Act* is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s21](#)

SNL2005 cR-15.1 Amdt.

22. (1) Subsection 7(2) of the *Rooms Act* is repealed.

(2) Subsection 7(3) of the Act is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

(3) Subsection 10(1) of the Act is repealed and the following substituted:

Chief executive officer

10. (1) The Lieutenant-Governor in Council shall appoint, after consultation with the board, a chief executive officer of the corporation who shall hold office on the terms and conditions established by the Lieutenant-Governor in Council.

(4) Subsection 10(5) of the Act is amended by deleting the word "minister" and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s22](#)

NLR 59/03 Amdt.

23. The *Waste Management Regulations, 2003*, Newfoundland and Labrador Regulation 59/03, published under the *Environmental Protection Act*, is amended by deleting the word "minister" in paragraph 3(1)(b) and subsections (2), (5) and (6) and substituting the words "Lieutenant-Governor in Council".

[2016 cI-2.1 s23](#)

RSNL1990 cW-11 Amdt.

24. Section 6 of the *Workplace Health, Safety and Compensation Act* is repealed and the following substituted:

Chief executive officer

6. The Lieutenant-Governor in Council shall appoint, after consultation with the board of directors, a chief executive officer of the commission who shall devote the whole of his or her time to the performance of duties under this Act.

[2016 cI-2.1 s24](#)

Schedule**Entities**

Marble Mountain Development Corporation Board of Directors

Public Service Pension Plan Corporation with respect to government appointees

Teachers' Pension Plan Corporation with respect to government appointees

Statutory Appointments

Auditor General Act, 2021, section 4

Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act, section 10, with respect to provincial appointees, nomination for chairperson, designation of vice-chairperson and alternate

Child and Youth Advocate Act, section 4

Citizens' Representative Act, section 3

College Act, 1996, subsection 7(1) and section 10 except subsections 10(2), (3) and (4)

Elections Act, 1991, section 4

Emergency 911 Act, subsection 12(1) except the directors referred to in paragraphs 12(3)(a) and (b) and subsection 12(4)

Energy Corporation Act, subsections 6(2) and 7(3)

Environmental Protection Act, Waste Management Regulations, 2003 section 3

House of Assembly Act, section 34

Housing Corporation Act, subsections 3(2) and 7(1)

Human Rights Act, 2010, section 22

Hydro Corporation Act, 2007, subsections 6(2) and 7(3)

Independent Appointments Commission Act, subsection 6(3)

Innovation and Business Investment Corporation Act, paragraph 7(1)(c)

Labour Relations Act, section 6

Legal Aid Act, paragraph 3(2)(a), except those members appointed under subsection 3(3)

Liquor Corporation Act, paragraph 5(1)(c) and subsection 5.1(1)

Lobbyist Registration Act, subsection 23(1)

Memorial University Act, paragraph 22(2)(c) and subsection 48(1)

Oil and Gas Corporation Act, subsections 10(2) and 12(3)

Pippy Park Commission Act, paragraph 4(1)(a) and subsection 12(1)

Provincial Health Authority Act, paragraph 11(2)(a), subsection 11(5) and subsection 17(1)

Public Procurement Act, subsection 15(1)

Public Service Commission Act, subsection 5(3)

Public Utilities Act, subsections 6(2) and 117(1)

Regional Health Service Boards Act, 2012, subsection 5(1)

Regional Service Boards Act, 2012, subsection 5(1)

Rooms Act, 2016, subsection 10(1) and paragraph 12(1)(b)

Royal Newfoundland Constabulary Act, 1992, subsection 4(1)

Seniors' Advocate Act, section 4

Status of Women Advisory Council Act, subsections 4(1) and 8(1)

Workplace Health, Safety and Compensation Act, subsection 4(1), paragraphs 4(2)(c) and (d), section 6 and subsections 22(1) and (2)

[2016 cI-2.1 Sch](#); 36/16 s2; 47/16 s2; [2016 c42 s1](#); [2016 cS-13.002 s25](#); [2016 cP-41.001 s31](#); [2016 cR-15.2 s32](#); [2018 cC-5.2 s28](#); [2018 cI-7.1 c26](#); [2018 c38 s11](#); [2019 c10 s5](#); [2019 c27 s3](#); [2019 cO-6.1 s50](#); [2021 cA-22.1 s45](#); [2022 cP-30.1 s51](#)

Public Service Commission Act⁵

RSNL1990 CHAPTER P-43

PUBLIC SERVICE COMMISSION ACT

Amended:

1991 c40 s33; 1991 c45 s15; 1992 c11 s1; OC94-204;
1996 cC-22.1 s.29; 1999 c22 s21; 2001 cN-3.1 s2; 2004 cL-3.1 s56; 2005 c47; 2006 c40 ss16&21; 2010 c31 s18; 2011 cC-37.00001 s50 (not in force- not included); 2016 cI-2.1 s19; 35/16 s2; 44/16 s1; 15/17 s1; 2017 cP-3.01 s32; 35/17 s1; 2017 c10 s26; 2017 c15 s4; 76/17 s2; 103/17 s2; 2018 c3 s4; 54/18 s2; 56/18 s2; 88/18 s2; 97/18 s2;
105/18 s2; 119/18 s2; 2019 c8 s30; 25/19; 2019 cS-29.02 s31;
2019 cP-44.01 s47; 52/20; 65/20; 87/20; 38/21; 52/21; 2021 c27 s29; 2021 cA-1.001 c36; 81/21; 2022 c31 s13; 21/23 s1

CHAPTER P-43

AN ACT RESPECTING THE PUBLIC SERVICE COMMISSION OF THE PROVINCE

Analysis

- [1. Short title](#)
- [2. Definitions](#)
- [3. Application of Act](#)
- [4. Non-application](#)
- [4.1 Labrador Inuit rights](#)
- [5. Commission](#)
- [6. Tenure of office](#)
- [7. Staff](#)
- [8. Pension and leave rights](#)
- [9. Procedure and records](#)
- [10. Right of commission to access and help](#)
- [11. Appointments and promotions](#)
- [12. Idem](#)
- [13. Merit principles](#)
- [14. Boards of examiners](#)
- [15. Duties of commission](#)
- [16. Concerning the Public Inquiries Act](#)
- [17. Annual report to minister](#)
- [18. Regulations](#)
- [18.1 Protection from liability](#)
- [19. Attempt to influence commission](#)
- [20. Application of certain provisions](#)
- [21. Appointments to agencies, boards and commissions](#)
- [22. Recommendations to be considered](#)
- [23. Effect of requirement to consider recommendation](#)
- [24. Schedule C](#)
- [25. Additional powers and duties of commission](#)
- [26. Current appointments unaffected](#)
- [27. Attempt to influence commission](#)

[Schedule A](#)

[Schedule B](#)

[Schedule C](#)

Short title

1. This Act may be cited as the *Public Service Commission Act*.

1973 No116 s1

Definitions

2. In this Act

- (a) "agency" means a body comprising the public service as defined by paragraph (k);
- (b) "chairperson" means the chairperson of the commission;

⁵ Link: <https://www.assembly.nl.ca/Legislation/sr/statutes/p43.htm>

- (c) "chief executive officer" means
 - (i) the deputy minister in a department of the government of the province,
 - (ii) the Clerk of the House of Assembly,
 - (ii.1) a person appointed to preside over a statutory office of the House of Assembly,
 - (iii) the Clerk of the Executive Council, and
 - (iv) another official head of an agency designated by the Lieutenant-Governor in Council to function as a deputy minister for the purposes of this Act;
- (d) "commission" means the Newfoundland and Labrador Public Service Commission continued by section 5;
- (e) "commissioner" means a member of the commission;
- (f) "contractual employee" means a person employed for a certain term for the purpose of performing certain specified work and whose terms and conditions of employment are specifically stated in a written contract;
- (g) "delegation" means a delegation of authority by the commission to a chief executive officer;
- (h) "employee" means a person employed in the public service;
- (i) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (j) "part-time employee" means an employee regularly employed to work less than the full number of working hours in a working day or less than the full number of working days in a working week of the agency concerned;
- (k) "public service" means
 - (i) the departments and other portions of the public service of the province specified in Schedule A,
 - (ii) an office, body or agency considered by the Lieutenant-Governor in Council to be a portion of the public service and added to Schedule A under section 3, and
 - (iii) the House of Assembly establishment and the statutory offices of the House of Assembly;
- (l) "seasonal employee" means an employee whose services are of a seasonal and recurring nature and includes an employee who is subject to periodic reassignment to various positions because of the nature of his or her work; and
- (m) "temporary employee" means an employee, not being a contractual employee, employed for a specific period or for the purpose of performing certain specified work and whose employment may be terminated at the end of the period or upon completion of the work.

[1973 No116 s2](#); [1986 c39 s1](#); [1989 c33 Sch B](#); [2001 cN-3.1 s2](#); [2005 c47 s1](#); [2006 c40 s21](#)

Application of Act

- 3.** (1) This Act applies to
 - (a) those portions of the public service of the province specified in Schedule A to this Act;
 - (b) a body or agency considered to be a portion of the public service of the province for the purposes of this Act and added to that Schedule under this section; and
 - (c) the House of Assembly establishment and the statutory offices of the House of Assembly.
- (1.1) This Act applies to the appointments under the statutory authority or to entities listed in Schedule C in the manner referred to in sections 20 to 27.
 - (2) The Lieutenant-Governor in Council may by order
 - (a) consider a body or agency to be a portion of the public service of the province for the purposes of this Act; and
 - (b) add that body or agency to those portions of the public service specified in Schedule A.
 - (3) An order made under this section is subordinate legislation for the purposes of the *Statutes and Subordinate Legislation Act*.
 - (4) An order made under this section may be made with retroactive effect to a date stated in the order.

[1986 c39 s2](#); [2006 c40 s16](#); [2016 cI-2.1 s19](#)

Non-application

- 4.** (1) Except as provided in sections 20 to 27, this Act does not apply to the appointment of
 - (a) the following officers of the House of Assembly and staff of the House of Assembly establishment:
 - (i) the Clerk, Clerk Assistant and Sergeant-at-Arms of the House of Assembly,
 - (ii) the Auditor General,
 - (iii) the Citizens' Representative,

- (iv) the Child and Youth Advocate,
- (iv.1) the Seniors' Advocate,
- (v) the Commissioner for Legislative Standards,
- (vi) the Chief Electoral Officer,
- (vii) the Information and Privacy Commissioner, and
- (viii) political staff as defined in paragraph 2(1)(e) of the *Conflict of Interest Act, 1995*;
- (b) a position compensated under the executive pay plan;
- (c) [Rep. by 2005 c47 s2]
- (d) chairpersons and members of the boards, or other equivalent governing bodies, of agencies;
- (e) staff of the Lieutenant-Governor's establishment;
- (f) staff of the office of the Premier;
- (g) executive and special assistants to ministers of the Crown;
- (h) private secretaries to ministers of the Crown;
- (i) members, within the meaning of the *Royal Newfoundland Constabulary Act*, of the Royal Newfoundland Constabulary;
- (j) members, within the meaning of the *St. John's Fire Department Act*, of the St. John's Fire Department;
- (k) the Superintendent and Assistant Superintendent of Her Majesty's Penitentiary, within the meaning of the *Prisons Act*, and staff appointed under subsection 4(1) of the *Prisons Act*;
- (l) barristers or solicitors;
- (m) medical doctors and dental surgeons;
- (n) contractual employees;
- (o) temporary employees;
- (p) seasonal employees; and
- (q) part-time employees.

(2) This Act does not apply to the appointment of those employees whose terms of employment are governed by a collective agreement between the Crown, the Newfoundland Hospital and Nursing Home Association and the Newfoundland Association of Public Employees.

[1973 No116 s5](#); [1992 c11 s1](#); [1999 c22 s21](#); [2005 c47 s2](#); [2010 c31 s18](#); [2016 cI-2.1 s19](#); [2017 c10 s26](#)

Labrador Inuit rights

4.1 This Act shall be read and applied in conjunction with the *Labrador Inuit Land Claims Agreement Act* and, where a provision of this Act is inconsistent or conflicts with a provision, term or condition of the *Labrador Inuit Land Claims Agreement Act*, the provision, term or condition of the *Labrador Inuit Land Claims Agreement Act* shall have precedence over the provision of this Act.

[2004 cl-3.1 s56](#)

Commission

- 5.** (1) The Newfoundland and Labrador Public Service Commission is continued.
- (2) The membership of the commission shall consist of 3 members.
- (3) The members of the commission shall be appointed by the Lieutenant-Governor in Council.
- (4) At least 1 member of the commission shall be appointed from the public service of the province and have served in the public service for at least 10 years.
- (5) In subsection (4) a period of service as a member of the commission counts as service in the public service.
- (6) The Lieutenant-Governor in Council shall designate 1 of the members of the commission to be chairperson.
- (7) The chairperson shall be the chief executive officer of the commission, shall have the status of a deputy minister and shall direct and supervise the administrative and technical activities of the commission.
- (8) The exercise of the powers of the commission shall not be impaired because of a vacancy in its membership.
- (9) Acts done by the commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the commission, be as valid as if the defect had not existed.

(10) There shall be paid out of the Consolidated Revenue Fund to a commissioner the remuneration that shall be determined by the Lieutenant-Governor in Council, provided that the Lieutenant-Governor in Council may not reduce the remuneration which a commissioner previously received without the assent of the House of Assembly.

(11) A commissioner shall not hold another office in the public service of the province or engage in other employment.

1973 No116 s6; 1983 c67 s1; [2001 cN-3.1 s2](#)

Tenure of office

6. (1) A commissioner holds office during good behaviour, but is removable by the Lieutenant-Governor in Council on address of the House of Assembly.

(2) A commissioner shall discharge the duties assigned to him or her under this Act and the regulations and the other duties that the minister assigns which shall be consistent with this Act.

(3) A commissioner shall before entering upon his or her duties take and sign before the Clerk of the Executive Council the oath or affirmation set out in Schedule B, and that signed oath or affirmation shall be retained by the Clerk of the Executive Council as part of the records of the clerk's office.

1973 No116 s7; 1986 c39 s3

Staff

7. Those officers, clerks and employees that are necessary for the proper conduct of the business of the commission shall be appointed or employed in the manner authorized by law, but the minister may authorize the temporary employment of the technical and other assistants that he or she thinks necessary and fix the remuneration of and prescribe the expenses that may be incurred by those assistants in carrying out their official duties.

1973 No116 s8

Pension and leave rights

8. A

(a) commissioner; and

(b) clerk, officer or employee with the commission who would, if employed by a department of the government of the province, be an employee for the purposes of the *Public Service Pensions Act, 2019*

is considered to be an employee for the purposes of the *Public Service Pensions Act, 2019*, including the purposes of the retirement age and the advanced or deferred pension privileges of an employee, and shall be subject to the same provisions respecting leave as a full-time employee of a department of the government of the province, however, the Lieutenant-Governor in Council may extend the service of a commissioner beyond normal retirement age and that extension shall be treated as re-employment after retirement age for the purposes of the *Public Service Pensions Act, 2019*.

1973 No116 s9; [2019 cP-44.01 s47](#)

Procedure and records

9. The commission shall adopt rules of procedure, subject to the approval of the Lieutenant-Governor in Council, and shall keep a record of its proceedings.

1973 No116 s10

Right of commission to access and help

10. Chief executive officers and employees in the public service shall give the commission the access to their respective offices and the facilities, assistance and information that the commission may require for the performance of its powers, functions and duties.

1973 No116 s11

Appointments and promotions

11. Appointments or promotions to positions within the public service, except those positions referred to in section 4, shall not be made except on the recommendation of the commission.

1973 No116 s12

Item

12. Appointments to positions within the public service shall be made from within the public service except where, in the opinion of the commission, it is not in the public interest to comply with this requirement.

1973 No116 s13

Merit principles

13. (1) Recommendations for appointments to and promotions within the public service shall be based on merit principles and made by the commission through competitive written examination or by other processes of personnel selection designated to establish the merit of candidates that the commission considers are in the best interests of the public service.

(2) Subject to the regulations, the commission may, in writing, and subject to those regulations that the Lieutenant-Governor in Council may make, delegate to a chief executive officer the authority to exercise and perform the powers or functions of the commission in relation to appointments and promotions to specific positions or categories of positions within that part of the public service of which he or she is the chief executive officer.

(3) Delegations shall be subject to review annually by the commission in accordance with rules of procedures adopted by the commission.

1973 No116 s14; 1983 c67 s2

Boards of examiners

14. (1) The commission may set up boards of examiners to test and pass upon the qualifications of candidates for appointment to or promotion within the public service.

(2) The chief executive officer of the agency in respect of which candidates for appointment or promotion are examined by a board of which he or she is not a member under subsection (1) may, upon so requesting, be present or designate a representative to be present at the interviewing of the candidates, with the right to participate in the interviewing, but he or she shall not be present at, or have the right to participate in, the making of the recommendation referred to in subsection (5).

(3) The chairperson, when sitting upon a board of examiners, shall be chairperson of the board, and in other cases he or she shall designate a chairperson.

(4) Members of boards of examiners, except those who are commissioners or employees in the public service, may be paid the daily allowance for the time occupied by them in attending a board of examiners and the expenses that the regulations provide.

(5) In respect of each appointment or promotion, the board of examiners shall recommend 3 candidates in order of merit and this list shall be submitted to the chief executive officer concerned for final selection provided that the board may recommend less than 3 if it is considered that fewer than 3 candidates are qualified.

(6) The recommendation of a board of examiners under subsection (5) shall be considered to be the recommendation of the commission.

1973 No116 s15

Duties of commission

15. (1) The commission shall

- (a) prescribe the standards and procedures to be followed in the recruitment and selection of candidates for appointment to and promotion within the public service;
- (b) review personnel transactions and investigate and report to the minister upon this Act and upon the violation of the regulations and upon other matters relative to the public service, its officers and other employees;
- (c) supervise effective personnel transfer and promotion procedures;
- (d) provide personnel planning advisory services;
- (e) advertise and effectively distribute information regarding vacant positions in the public service other than with respect to appointments referred to in section 4;
- (f) prepare, maintain and distribute to employees of the public service appropriate staff procedure manuals;
- (g) provide staff evaluation advisory services;
- (h) provide, in consultation with chief executive officers and the Treasury Board, appropriate staff training and executive development programs;
- (i) assume the additional duties and supply the additional services that may be prescribed by the Lieutenant-Governor in Council; and
- (j) do other acts and things that may be necessary for the proper administration of this Act and the regulations.

(2) Where a report referred to in paragraph (1)(b) relates to a personnel transaction involving the House of Assembly establishment or a statutory office of the House of Assembly, the report shall be made to the Speaker of the House of Assembly.

1973 No116 s16; 2005 c47 s3

Concerning the Public Inquiries Act

16. For the purpose of carrying out his or her powers, functions and duties under this Act, a commissioner has the powers, authorities, privileges and immunities that are or may be conferred upon a commissioner under the *Public Inquiries Act* and is considered to be an "investigating body" for the purposes of the *Public Investigations Evidence Act*.

1973 No116 s17

Annual report to minister

17. The chairperson shall, following the end of each financial year of the government, make a report to the minister of the transactions and affairs of the commission during the immediately preceding financial year, and the minister shall lay the report before the Legislature within 15 days after it is submitted to him or her if the Legislature is then sitting, and, if it is not sitting, then within 15 days after the beginning of the next session.

1973 No116 s18

Regulations

18. The Lieutenant-Governor in Council may make regulations

- (a) for the purposes of subsection 6(2);
- (b) specifying the powers and functions of the commission that may be delegated under subsection 13(2), providing for the positions or categories of positions to which that subsection may apply, prescribing procedures to be followed in the exercise of the delegation and providing for the monitoring by the commission of the use of the delegation;
- (c) providing for the allowances and expenses referred to in subsection 14(4);
- (d) necessary or desirable for the carrying out of the commission's powers, functions and duties under this Act; and
- (e) generally, to give effect to the purpose of this Act.

1973 No116 s19

Protection from liability

18.1 A person is not liable for anything done or omitted to be done in good faith in the exercise or performance of a power, duty or function conferred by or under this Act.

[2016 cl-2.1 s19](#)

Attempt to influence commission

19. (1) A person shall not, directly or indirectly, try to influence improperly the commission, a member of a board of examiners referred to in section 14, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person to the public service or with respect to the promotion of himself or herself or another employee in the public service.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days and, where the person is employed in the public service, he or she is also liable to suspension or dismissal.

(3) A prosecution under this section shall not be taken except with the written consent of the minister.

1973 No116 s20

Application of certain provisions

20. (1) This section and sections 21 to 27 apply only to

- (a) the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C; and
- (b) to appointments listed in the schedule to the *Independent Appointments Commission Act*.

(2) In the case of a conflict between the other provisions of this Act and this section and sections 21 to 27, this section and sections 21 to 27 apply.

(3) In this section and sections 21 to 27

- (a) "appointment", except as otherwise provided, means the appointment of a person under the authority of a statutory provision or to an entity listed in Schedule C;
- (b) "merit-based process" means a process established by the commission for the purpose of executing its duties under sections 21 to 27; and
- (c) "minister", notwithstanding paragraph 2(i), means the minister
 - (i) responsible for the administration of the Act under the authority of which an appointment may be made, or
 - (ii) to whom an entity is accountable further to its establishment.

[2016 cl-2.1 s19](#)

Appointments to agencies, boards and commissions

21. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process.

(2) Subsection (1) does not apply to

(a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with sections 21 to 27; or

(b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17.

[2016 cI-2.1 s19](#)

Recommendations to be considered

22. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

[2016 cI-2.1 s19](#)

Effect of requirement to consider recommendation

23. Notwithstanding section 22, the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.

[2016 cI-2.1 s19](#)

Schedule C

24. (1) The Lieutenant-Governor in Council may, by order, amend Schedule C.

(2) An order made under this section is subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

[2016 cI-2.1 s19](#)

Additional powers and duties of commission

25. In addition to the other powers and duties of the commission under this Act, the commission may,

(a) with respect to appointments,

(i) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist,

(ii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,

(iii) create and maintain a list of potential appointees based on subparagraphs (i) and (ii), and

(iv) further to a merit-based process, provide to the Lieutenant-Governor in Council or the minister, as appropriate, recommendations for appointments; and

(b) with respect to appointments as defined in the *Independent Appointments Commission Act*,

(i) support and advise the commission established under the *Independent Appointments Commission Act* in the manner contemplated by that Act,

(ii) advertise and otherwise effectively distribute information respecting appointments and receive applications where vacancies exist,

(iii) solicit and accept applications and expressions of interest for appointments on an ongoing basis,

(iv) create and maintain a list of potential appointees based on subparagraphs (ii) and (iii), and

(v) further to a merit-based process, provide to the commission established under the *Independent Appointments Commissions Act* a list of all potential appointees, including a list of recommendable potential appointees.

[2016 cI-2.1 s19](#)

Current appointments unaffected

26. Nothing in sections 20 to 25 affects an appointment made before the coming into force of this section.

[2016 cI-2.1 s19](#)

Attempt to influence commission

27. (1) A person shall not, directly or indirectly, try to influence improperly the commission, an employee of the commission or a chief executive officer with respect to the appointment of himself or herself or another person

(a) to an appointment; or

(b) to an appointment as defined in the *Independent Appointments Commission Act*.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

[2016 cI-2.1 s19](#)

Schedule A

1. A department established under the *Executive Council Act*
2. The Executive Council Office
3. C.A. Pippy Park Commission
4. College of the North Atlantic
5. Government Purchasing Agency
6. Municipal Assessment Agency
7. Newfoundland and Labrador Public Service Commission
8. The Rooms Corporation of Newfoundland and Labrador
9. The Provincial Information and Library Resources Board

[2005 c47 s4](#)

Schedule B

I, A.B., of solemnly swear (or solemnly, sincerely and truly declare and affirm) that I will faithfully and honestly fulfil the duties which devolve upon me as a member of the Newfoundland and Labrador Public Service Commission and that I will not, without due authority in that behalf, disclose or make known matters which come to my knowledge because of my holding office as a member of the commission. (Where an oath is taken, add "So help me God".)

[1986 c39 s4; 2001 cN-3.1 s2](#)

Schedule C

Entities

Advisory committee established under section 14 of the *Prescription Monitoring Act* with respect to public representatives

Atlantic Lotto Corporation with respect to provincial representatives

Audit Committee with respect to ministerial appointments of members external to government

C.A. Pippy Park Golf Course Limited with respect to ministerial appointments

Canadian Free Trade Agreement Roster for Appellate Panels

Canadian Free Trade Agreement Roster for Panels and Compliance Panels

Committee for the Independent Review of the Public Post-Secondary Education System

Independent Geoscience Technical Advisory Committee with respect to mineral industry representatives

Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees

Municipal Assessment Agency with respect to taxpayer representatives

Mistaken Point World Heritage Site Advisory Council with respect to public interest members

Newfoundland and Labrador Film Development Corporation

Newfoundland and Labrador Historic Commemorations Board

Newfoundland and Labrador Sports Centre Inc. with respect to 6 members and a chairperson appointed by Lieutenant-Governor in Council

Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson

Oil and Gas Industry Development Council

Premier's Youth Council

Provincial Advisory Council on Aging and Seniors

Provincial Advisory Council on Mental Health and Addictions

Provincial Cancer Control Advisory Committee

Provincial Council of the Rural Secretariat

Provincial Wellness Advisory Council
Regional Council of the Rural Secretariat - Avalon Peninsula
Regional Council of the Rural Secretariat - Burin Peninsula
Regional Council of the Rural Secretariat - Clarenville-Bonavista
Regional Council of the Rural Secretariat - Corner Brook-Rocky Harbour
Regional Council of the Rural Secretariat - Gander-New-Wes-Valley
Regional Council of the Rural Secretariat - Grand Falls-Windsor-Baie Verte-Harbour Breton
Regional Council of the Rural Secretariat - Labrador Region
Regional Council of the Rural Secretariat - St. Anthony-Port au Choix Region
Regional Council of the Rural Secretariat - Stephenville-Port aux Basques Region
Teacher Allocation Review Committee
Torngat Joint Fisheries Board with respect to the members appointed by the provincial minister
Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister
URock Volunteer Award Selection Board
Statutory Appointments
<i>Accessibility Act, subsection 9(3)</i>
<i>Apprenticeship and Certification Act , subsection 5(1)</i>
<i>Architects Act, 2008 , subsections 6(1) and 15(4) with respect to ministerial appointments</i>
<i>Arts Council Act , section 6</i>
<i>Atlantic Provinces Harness Racing Commission Act , subsection 5(1)</i>
<i>Atlantic Provinces Special Education Authority Act (Nova Scotia), paragraph 5(2)(b)</i>
<i>Buildings Accessibility Act, sections 18 and 20 with respect to Lieutenant-Governor in Council appointments</i>
<i>Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act, section 201.114 with respect to provincial appointments</i>
<i>Chartered Professional Accountants and Public Accountants Act , subsections 5(1) and 28(4) with respect to ministerial appointments</i>
<i>Chiropractors Act, 2009 , subsections 5(1) and 21(4)</i>
<i>Credit Union Act, 2009, Credit Union Regulations, 2009, subsection 40(1) with respect to ministerial appointments</i>
<i>Criminal Code , section 672.38</i>
<i>Crop Insurance Act , section 3</i>
<i>Dental Act, 2008 , paragraphs 5(2)(c) and 27(6)(b)</i>
<i>Denturists Act, 2005 , subsections 4(1) and 14(1) with respect to ministerial appointments</i>
<i>Dietitians Act , subsections 6(1) and 22(4) with respect to ministerial appointments</i>
<i>Dispensing Opticians Act, 2005 , subsections 5(1) and 13(4) with respect to ministerial appointments</i>
<i>Economic Diversification and Growth Enterprises Act , subsection 6(1)</i>
<i>Embalmers and Funeral Directors Act, 2008 , subsections 4(1) and 16(3) with respect to ministerial appointments</i>
<i>Endangered Species Act , subsection 6(3)</i>
<i>Engineers and Geoscientists Act, 2008 , subsections 5(1) and 21(4) with respect to ministerial appointments</i>
<i>Fatalities Investigations Act , subsection 13.1</i>
<i>Financial Services Appeal Board Act , section 3</i>
<i>Fish Processing Licensing Board Act , section 5</i>
<i>Forestry Act , section 58</i>
<i>Geographical Names Board Act , section 3</i>
<i>Government Money Purchase Pension Plan Act , section 12.1</i>
<i>Government Purchasing Agency Act , subsection 7(1)</i>

Health Professions Act, subsection 9(1) and paragraph 35(4)(c) with respect to ministerial appointments

Health Research Ethics Authority Act, paragraph 3(2)(d)

Hearing Aid Practitioners Act, subsections 4(1) and 13(4) with respect to ministerial appointments

Historic Resources Act, section 22

Human Rights Act, 2010, section 36

Income and Employment Support Act, section 42

Labrador Inuit Land Claims Agreement, Part 12.8.2, 13.10.2

Lands Act, *St. John's Urban Region Agriculture Development Area Regulations*, subsections 3(4) with respect to the appointment of a member of the community and subsection 7(2)

Law Society Act, 1999, subsections 42(3.1),(3.2) and (4) with respect to ministerial appointments and paragraph 65(2)(b)

Licensed Practical Nurses Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Livestock Insurance Act, section 3

Management of Greenhouse Gas Act, paragraphs 8(2)(a) and (b)

Massage Therapy Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Medical Act, 2011, paragraph 9(1)(b) and subsection 40(4) with respect to ministerial appointments

Medical Care and Hospital Insurance Act, subsection 28(1) with respect to those persons not nominated by the medical or dental associations

Medical Care and Hospital Insurance Act, 1999, *Physicians and Fee Regulations*, paragraph 15(1)(b)

Mental Health Care and Treatment Act, section 57

Mineral Act, section 37

Muskrat Falls Project Land Use and Expropriation Act, *Muskrat Falls Project Land Use and Expropriation Regulations*, section 16

Natural Products Marketing Act, section 3

Natural Products Marketing Act, Egg Scheme, 2000, subsection 4(4)

Natural Products Marketing Act, Milk Scheme, 1998, subsection 4(6)

Natural Products Marketing Act, Newfoundland and Labrador Chicken Marketing Scheme, subsection 4(1.1)

Occupational Health and Safety Act, section 12

Occupational Therapists Act, 2005, subsections 4(1) and 14(4) with respect to ministerial appointments

Optometry Act, 2012, subsections 9(1) and 27(4) with respect to ministerial appointments

Order of Newfoundland and Labrador Act, paragraph 12(1)(c)

Patient Safety Act, subparagraph 19(1)(b)(i)

Petroleum and Natural Gas Act, Royalty Regulations, 2003, paragraph 81(6)(b)

Pharmaceutical Services Act, section 42

Pharmaceutical Services Act, Pharmaceutical Services Regulations, paragraphs 8(2)(d) and (e)

Pharmacy Act, 2012, subsections 6(1) and 36(4) with respect to ministerial appointments

Physiotherapy Act, 2006, subsections 5(1) and 16(4) with respect to ministerial appointments

Private Training Institutions Act, *Private Training Institutions Regulations*, paragraphs 3.1(e) and (f)

Professional Fish Harvesters Act, paragraphs 5(2)(f) and (h) and subsection 15(3) and section 20 with respect to the appointment of a person who is not a professional fish harvester

Provincial Court Act, 1991, paragraphs 16(2)(b), 19(1)(c) and 20(1)(c)

Provincial Health Authority Regulations, subsection 7(2)

Psychologists Act, 2005, subsections 4(1) and 15(4) with respect to ministerial appointments

Public Libraries Act, paragraph 3(c)

Public Safety Act, subsection 25(1)

Queen's Counsel Act, subsection 7(2) with respect to appointments not recommended by benchers

Regional Services Board Act, 2012, subsection 6(2)

Registered Nurses Act, 2008, paragraph 6(1)(b) and subsection 19(5) with respect to ministerial appointments

Royal Newfoundland Constabulary Act, 1992, subsection 29(1)

Social Workers Act, subsection 12(1) and paragraph 24(4)(c)

Student Financial Assistance Act, 2019, *Student Financial Assistance Administration Regulations*, paragraphs 18(1)(b) and (e)

Teachers Training Act, section 3

Urban and Rural Planning Act, 2000, subsection 41(1)

Veterinary Medical Act, 2004, subsections 7(1) and 33(1) with respect to ministerial appointments

Wilderness and Ecological Reserves Act, subsection 7(1)

[2016 cI-2.1 s19](#); 35/16 s2; 44/16 s1; 15/17 s1; [2017 cP-3.01 s32](#); 35/17 s1; [2017 c15 s4](#); 76/17 s2

103/17 s2; [2018 c3 s4](#); 54/18 s2; 56/18 s2; 88/18 s2; 97/18 s2; 105/18 s2; 119/18 s2; 25/19 s2; [2019 c8 s30](#); [2019 cS-29.02 s31](#); 52/20 s1; 65/20 s1; 87/20 s2; 38/21 s2; 52/21 s1; [2021 c27 s29](#); [2021 cA-1.001 s36](#); 81/21 s2; [2022 c31 s13](#); 21/23 s1

Statutory Review's Broad Terms of Reference

The statutory review, required by section 16 of the *Independent Appointments Commission Act*, was announced on March 16, 2023, with Terms of Reference that stated: "The review of the Act will be comprehensive" and will "not be limited to" the listed areas of potential improvement. This indicates that any matters related to the Act are within bounds.

Provincial Government Announces Statutory Review of the Independent Appointments Commission⁶

Executive Council, March 16, 2023

Today, the Government of Newfoundland and Labrador announced a statutory review of the Independent Appointments Commission as per the requirements of the Independent Appointments Commission Act.

Mr. David Conway has been appointed to lead the review, which will identify improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation. The review will explore the timeliness of recommendations, encouraging more citizens to seek appointment, and maximizing the diversity of qualified candidates and regional representation.

The terms of reference for the review are noted in the backgrounder below. Mr. Conway will deliver his final report to the Minister Responsible for the Public Service Commission by May 31, 2023.

Governed by the [Independent Appointments Commission Act](#), which received royal assent in 2016, the Independent Appointments Commission is a seven person, non-partisan commission appointed through a resolution of the House of Assembly. The commission provides merit-based recommendations to approximately 30 Tier One entities. These agencies, boards and commissions deliver important services including health care, education and the management of our province's natural resources.

Quote

"The Independent Appointments Commission provides an important service to the province, ensuring a fair and merit-based process is followed when appointing members to serve on our agencies, boards and commissions. I look forward to Mr. Conway's review and recommendations." - Honourable Siobhan Coady, Deputy Premier and Minister Responsible for the Public Service Commission

-30-

Learn more

[Independent Appointments Commission Act](#)

[The Independent Appointments Commission](#)

[Tier One Entities](#)

BACKGROUNDER

Biography of David Conway

David Conway graduated from McGill University with a B.A. in Economics (1996) and an LL.B. from the University of New Brunswick (1999). He was then called to the Ontario bar before being called to the bar in Newfoundland and Labrador.

Mr. Conway worked exclusively in the fields of labour law and administrative law for fifteen years before becoming the chairperson of the Newfoundland and Labrador Labour Relations Board from 2017 until 2022. Mr. Conway now acts as a neutral arbitrator, adjudicator and independent legal counsel. He is on the roster of arbitrators for Newfoundland and Labrador established by the Labour Management Arbitration Committee.

Mr. Conway has experience in numerous types of proceedings, including labour arbitrations, judicial reviews, workers' compensations hearings, employment insurance hearings, human rights proceedings,

⁶ Link: <https://www.gov.nl.ca/releases/2023/exec/0316n01/>

collective agreement negotiations and statutory reviews. He has also appeared as counsel at various levels of court including the Supreme Court of Canada. Mr. Conway has taught labour relations at the graduate level at Memorial University, is a member of the Law Society of Newfoundland and Labrador's Disciplinary Panel, and instructs at the Bar Admission Course. He is a past co-chair of the Newfoundland and Labrador Labour Management Arbitration Committee and is a member of the Canadian Bar Association's National Labour and Employment Law section.

BACKGROUNDER

Terms of Reference – Independent Appointments Commission Act Review

Consultant

The consultant reviewing the legislation is David Conway, who shall complete the review in accordance with these terms of reference.

Mandate

The review of the Act will be comprehensive and established with the goal of identifying improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes which support its administration. The review will incorporate, but not be limited to, an examination of potential improvements in the following areas:

- The processes and timelines associated with the generation of recommendations through the merit-based appointment process. Vacant positions on agencies, boards and commissions must be filled in a timely manner;
- Ways to maximize the diversity of candidates identified as qualified and recommendable for appointment, including but not limited to Indigenous candidates;
- Ways to maximize regional representation from all parts of the province;
- Ways to encourage more citizens to seek appointment and to ensure that lists of qualified and recommendable candidates are continually refreshed; and
- To ensure that the positions and appointments which are part of the merit-based appointment process are included or excluded as appropriate.

Methodology

The consultant may receive written submissions and/or conduct consultations with interested parties, including but not limited to residents, media and public bodies.

Public consultation sessions may be scheduled at the discretion of the consultant. In consultation with the Public Engagement and Planning Division consideration will be given to the methods of consultation that promote the engagement of interested parties, regardless of regional location (e.g., online), and are cost-effective and safe.

The consultant will have access to existing data and documentation utilized by the Independent Appointments Commission and the Public Service Commission in the conduct of the review.

Timeline

The consultant shall terminate his work and deliver his final report to the Minister Responsible for the Public Service Commission on, or before, May 31, 2023.

Question Period questions on Bill 1 of 2016⁷

Question Period of March 10, 2016⁸

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

MR. P. DAVIS: Thank you, Mr. Speaker. Mr. Speaker, during the election campaign last year, and in the Liberal red book, it stated that a new Liberal government will establish an Independent Appointments Commission to take the politics out of government appointments. Well, yesterday the government tabled the *Independent Appointments Commission Act*, Bill 1, which I can tell you is a non-binding commission. They can't make appointments. They can make non-binding recommendations to government, so government can secretly select from a pool of candidates who they want to appoint to commissions. I ask the Premier: How does this take the politics out of appointments?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. I'm very proud to answer that question from the former premier because if there's anyone in this room who would have experience in putting politics into political appointments, it would be the former premier. He had his share of them.

PREMIER BALL: I would not have any experience in that, and I will not. Because what we will put in place, and very proud to be able to bring legislation in place – I'm taking from what the former premier is saying that he's not going to support this because he would not see this as an improvement over the process that he was used to. I believe it is a big improvement. We're going to see highly skilled Newfoundlanders and Labradorians who will volunteer their time to make sure that the politics are taken out of government appointments. We will see people who have the technical skills and the abilities to actually do their jobs. This is exactly what Newfoundlanders and Labradorians are looking for.

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

MR. P. DAVIS: Thank you, Mr. Speaker. I will remind the Premier that his signature bill that he's brought to the floor of the House of Assembly has sections in it, such as section 9, which enables Cabinet to completely sidestep the commission and make their own appointments. As a matter of fact, Mr. Speaker, under Schedule C there are six pages of entities where appointments can be made through this legislation that don't even go to the Independent Appointments Commission. It completely sidesteps the Independent Appointments Commission. The Public Service Commission makes a pool and it goes to the minister to hand-pick who they want. How does that take the politics out of appointments?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you. I look forward to the debate from the former premier as he defends his process and as we defend our process. The Public Service Commission, first and foremost – contrary to what the former premier may feel, I value the work the Public Service Commission does. They do a great job. So for the former premier to ever question the integrity of that group is shameful, I say, Mr. Speaker. They do a great job. They will do the vetting, as part of the selection committee that will actually recommend names to Cabinet. The decision will then be made there. I will guarantee you, if you ever saw a Cabinet that will actually dismiss this group of skilled, intelligent Newfoundlanders and

Labradorians – they will do what Newfoundlanders and Labradorians always do. They will reject that and they will stand up for us. That will not happen with this government, I say, Mr. Speaker.

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

MR. P. DAVIS: Mr. Speaker, I'm on the record many times here speaking loudly and proudly of the great work that public servants do for Newfoundland and Labrador.

MR. P. DAVIS: I'm not worried about the process they are going through. What worries me is when they create the pool of potential candidates for committees, commissions and entities and they send it over to the secret Cabinet decision, Mr. Speaker, because this bill here legitimizes the secrecy around decisions. In fact, the Premier said today that if they sent three names over for senior positions in government, they don't have to say who those three names are. They don't have to say if they picked one of the three names and they don't have to say who the two are that weren't eligible. It's a legitimate bill, certainly, Mr. Speaker. It's a bill that legitimizes the secrecy process of Cabinet. It gives them a pool to choose from and allows them to make their own choices so they can look after their friends when they campaigned last year. I ask the Premier one more time: When the process leads to secret decisions by Cabinet, how does that take the politics out of this decision-making process?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. When you look at the selection process and when the former premier gets a chance to read the legislation and as we debate it here, maybe there will be a better understanding of how this process works. In the past, the pool was this. The pool was a list of names that Cabinet, or the Premier – that's the list, that was their pool. The Public Service Commission, an Independent Appointments Commission, no, they were all of that. The decision was made by the Premier primarily, or by Cabinet, or some Cabinet friends. That was the pool. I will tell you right now that this Independent Appointments Commission is a huge, better way. This is a much better way of putting Newfoundlanders and Labradorians, qualified Newfoundlanders and Labradorians, into key positions. The Independent Appointments Commission is volunteering their time to do this, and we look forward to working with them.

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

MS. MICHAEL: Thank you very much, Mr. Speaker. It is my turn now to speak to the Premier. This government did promise they would be removing politics from the appointments process, yet Bill 1 stipulates that government retain the power to appoint anyone they want, despite the recommendations of the new Independent Appointments Committee. I ask the Premier how this notwithstanding clause squares with his promise to take politics out of appointments. He's keeping it in his hands.

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. Two things – I think there's a step that the Leader of the Third Party didn't mention. There would be an activity report that would be reported to this House of Assembly. The IAC, the commission themselves, the five names would come to the floor of this

⁷ Bill 1 of 2016 is linked here: <https://assembly.nl.ca/HouseBusiness/Bills/qa48session1/bill1601.htm>

⁸ Link: <https://assembly.nl.ca/HouseBusiness/Hansard/qa48session1/16-03-10.htm>

House of Assembly. That's a very open process. They will be given the opportunity to actually, through resolution, debate the selection of those five names. Then at the end of the year, which we will anticipate somewhere between 200 and 300 appointments – so it's going to be a very active commission, as you would tell – this activity report would make it to the floor of this House of Assembly as well. The other option, of course, would be to stay and continue to do it the way things were. We are not satisfied with that. This is a big improvement, and no other province in the country right now is doing something like this. I'm looking forward to working with the IAC and the resolution on this floor.

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

MS. MICHAEL: Thank you very much, Mr. Speaker. I'm asking the Premier, if Cabinet ignores recommendations of the IAC on a particular appointment, will they disclose the names of the nominees and why they are refusing to accept the nominees?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: One of the things – and we've put considerable time into thinking about the three names, if there were three names that went to Cabinet as part of the selection process either through the PSC, then through the IAC as they vet this and then into Cabinet. It's really a three-step process here. When you consider people that put their names and allow it to be vetted in this particular process, if there are three names there, two people would be rejected. Initially, I felt that maybe we should post the three names. In retrospect and thinking about it that people allow this – there will be two people rejected. We thought for the protection of privacy of those individuals, the encouragement for them to get involved in other positions – it could even influence work-related positions that they might be looking for. We felt that it would be better to protect the names of those individuals that were rejected. Then at any time, if they so felt, they could actually make their names public themselves.

Question Period of March 21, 2016⁹

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

MR. KENT: Thank you, Mr. Speaker. Unlike Bills 9 and 10, which we've been discussing in Question Period, Bill 1 actually has been tabled in the House. We have many concerns about government's proposed Appointments Commission, and for this reason we will be advocating for changes to Bill 1. For instance, many government appointees must swear an oath or make an affirmation to be impartial. Will the government consider an amendment to Bill 1 to require appointments commissioners to swear an oath or make an affirmation to be impartial?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. Bill 1, which has been mentioned as a signatory piece of legislation for this administration – just if I remember about Bill 1, for the former administration it was a procurement bill that was tabled as Bill 1, which was supposed to be their signatory piece of legislation. It died on the Order Paper many years later, I would say. Mr. Speaker, we look forward to the debate on the Independent Appointments Commission. We will certainly be entertaining – as we would completely expect that the Members opposite would come with ways to improve that bill. If we see that during a good, robust debate there

are ways to bring improvements to any piece of legislation, of course we'd consider all those things.

MR. SPEAKER: The Member for the District of Mount Pearl North.

MR. KENT: Thank you, Mr. Speaker. I thank the Premier for the answer and for acknowledging that government will consider amendments during the course of debate. As a result of Bill 1, three-quarters of government agencies, boards and commissions will bypass this new Appointments Commission altogether. Instead, the Public Service Commission will gather names and simply pass them along to ministers when requested. I ask the Premier: How can you claim that this is anything other than smoke and mirrors when the vast majority of your government's appointments will bypass your new commission?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. The Members opposite should know all about appointments. They made many of them in the past 10 or 12 years. They would know the magnitude of the work that was done. To ever suggest, Mr. Speaker, that the Public Service Commission in our province could not put in place an independent process that would allow for the best Newfoundlanders and Labradorians to seek appointments and to be appointed for the expertise and the technical knowledge that they bring to those important boards and commissions, I would say it is not the way that I feel. We support that. When you look at the Independent Appointments Commission, they will be five individuals from around our province. They will help Cabinet. The red book and the election platform clearly outlined that there would be recommendations. I can tell you there will be an activity report.

MR. SPEAKER: Order, please!

PREMIER BALL: That will be brought to the floor of the House of Assembly and all Members will be proud of the Independent Appointments Commission.

Question Period of May 16, 2016¹⁰

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

MR. KENT: Mr. Speaker, other than the handful of ABCs, the agencies, boards and commissions that will go through the Appointments Commission, Bill 1 does not require the new Liberal Appointments Commission to rank the three names they submit to Cabinet. Will the government agree to an amendment to Bill 1 that will direct the Appointments Commission to rank the candidates whose names they submit to Cabinet?

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

MR. A. PARSONS: Thank you, Mr. Speaker. I'm happy to stand here and speak to Bill 1, the Independent Appointments Commission, which, as the Member knows, we will be discussing in Committee in this House today. We're willing to listen to all the amendments that the Members will put forward as we go into the Committee stage today. However, I would note that I did ask over a month and a half ago if the Opposition had any suggestions that they would like to see. I wish they had forwarded them earlier, but we will consider them as we move through Committee today. Thank you.

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

⁹ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-03-21.htm>

¹⁰ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-16.htm>

MR. KENT: Thank you, Mr. Speaker. I thank the minister for his response. This bill has not been discussed in this House for over a month and a half. We were advised this morning that we will be going into Committee today. I have all of our amendments right here, Mr. Speaker, and I'm happy to give them to the minister right now and happy to work with him as we run through the debate. Bill 1 will allow the Cabinet to ignore the names submitted by their Appointments Commission and appoint someone else in secrecy. Will the government amend Bill 1 to require the Cabinet to make a public disclosure every time the person they appoint is not on the list of candidates recommended by the commission?

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

MR. A. PARSONS: Thank you, Mr. Speaker. Just going back to the first point the Member referenced, I emailed the Opposition on March 23 and it said: Why don't you submit your amendments so we can discuss them and consider them and put some thought into whether they can improve the bill? The Opposition didn't take the opportunity to forward that until right this moment in the House of Assembly. The purpose of this Legislature is to discuss legislation in the hopes of making it better so that we can have the best legislation. I would submit we're very proud to forward this piece of legislation into the House. Before we had this legislation what you had were individuals getting appointed to prominent positions based on who they knew, and not necessarily were they the best selection for this position. So I look forward to the amendments that the Members have as we discuss this in Committee today. Thank you.

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

MR. KENT: Mr. Speaker, Committee of the Whole is the opportunity to introduce amendments; that process isn't starting until today. If government was serious about considering amendments to Bill 1, it would take this flawed piece of legislation and refer the entire thing to a Committee of this House for review by all Members. Bill 1 will allow the Cabinet to bypass their Appointments Commission whenever circumstances are deemed to be urgent or extenuating. Would the government agree to an amendment that would require the Cabinet to notify the public immediately whenever it bypasses the Appointments Commission to make an appointment in such circumstances?

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

MR. A. PARSONS: Thank you, Mr. Speaker. Again, Committee is the opportunity to discuss this, but I would like to thank the Members of the NDP who, when I emailed them, came forward with their suggestions some time ago so that we could discuss them. I would like to thank the NDP for doing this.

MR. A. PARSONS: Again, the purpose is to have the best piece of legislation. I am looking forward to considering these amendments. But before we can say what we're going to do, I'd like to even read the amendment as opposed to being asked a question in the House of Assembly right here. Thank you, Mr. Speaker.

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

MR. KENT: Mr. Speaker, as I said, the minister is welcome to see all of the amendments. I've commented on some of the intended amendments publicly previously. Bill 1 calls for a review of the act every five years, a review that would be sent to Cabinet. Would the government, in the interest of openness and accountability, agree to an amendment that

would send this review, not to Cabinet, but to the Speaker of this House for public release?

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

MR. A. PARSONS: Again, I can probably give the same answer now that I'll give, depending on how many amendments they put forward, is we look forward to listening to their amendments and to the rationale behind them. I certainly won't make a snap judgement on this very important piece of legislation, something that is new in this province and we've never seen before. I look forward to seeing the amendments that the Member puts forward; however, I would note one thing. They are putting forward suggestions based on a piece of legislation, one that they never put in when they were there for 12 years. In those cases, Cabinet put in who they wanted. They put it in based on the name that they thought; there was no consideration by anybody, whether it was the Public Service Commission, an Independent Appointments Commission. This was totally Cabinet-based. I appreciate the fact that they're trying to fix the flawed process that they had. Thank you.

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

MR. KENT: What we're trying to do, Mr. Speaker, is fix a flawed piece of legislation that is a complete joke.

MR. KENT: They're talking about an Independent Appointments Commission. The commission is anything but independent – and guess what? It can't even make appointments. Mr. Speaker, will government consider an amendment to Bill 1 that will require annual reviews to determine whether the merit principle was applied in every case that an appointment was made? Would the government agree to have this review published in the interest of openness, transparency and accountability?

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

MR. A. PARSONS: Mr. Speaker, again, I look forward to hearing the amendments that the Members put forward, as they do so in the Committee process. Again, I wish we could have had an opportunity to review them over the last month-and-a-half that we had prior to this coming back to the House. I'm willing to consider any amendment that they put forward here in this House so we can discuss it to make sure we have the best piece of legislation. The fact is we have to listen to these suggestions because we do want the best piece of legislation possible. Either way, even if it's flawed it's going to be 10 times better than the process that the Opposition had when they were in government, which was nothing. It was based on who you knew. Thank you.

Question Period of May 17, 2016¹¹

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

MS. MICHAEL: Thank you very much, Mr. Speaker. This government promised to take politics out of government appointments to agencies, boards and commissions, but last night in debate on Bill 1, the *Independent Appointments Commission Act*, this same government voted against an amendment that would have seen the commission selected by an all-party committee of the House rather than by Cabinet. I ask the Premier: How does keeping control of the makeup of the commission in Cabinet's own hands lead to the less partisan system they promised?

MR. SPEAKER: The hon. the Premier.

¹¹ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-17.htm>

PREMIER BALL: Thank you, Mr. Speaker. The Independent Appointments Commission that will be established in Newfoundland and Labrador, I think is a great step forward in putting people, individuals, in Newfoundland and Labrador that are merit-based, has the technical experience, to help make the decisions that we must make in Newfoundland and Labrador. These appointments, which are really something that we have never seen in our province before – as you know, prior administrations, even some NDP administrations that we see in other provinces, have not taken the proactive measures that we've taken to put in place. What you will see here is there will be a resolution with the commission's names that will come to this House. They will debate it here and then the committee will be put in place. We will use our Public Service Commission; unlike we've seen in this Legislature or in this province any time in the past. So I'm looking forward to seeing some fantastic names, and I encourage all Members in this House to reach out into the community, engage Newfoundlanders and Labradorians in some important work that needs to be done in our province.

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

MS. MICHAEL: Thank you, Mr. Speaker. I ask the Premier: How does a body that merely makes non-binding recommendations to Cabinet or to a particular minister and is itself selected by Cabinet be named an Independent Appointments Commission?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: As I said earlier, Mr. Speaker, the self-selection that the Member refers to – actually, the names will come through a resolution in this House of Assembly here and then she will have the opportunity to have her say. I'm suggesting – and I will predict something – that she will actually support and endorse those names. I think she'll be very proud and when she's asked by the media to respond to this, I believe that the Member opposite will be supporting those names. That's what I'm suggesting right now and predicting. Added to that, the people that will be serving those boards, we will be reporting to the House of Assembly on the people that would be doing the work that is required and we are going to be asking them to do. I think that it would be very fair to the individuals that she may know that would be interested – I would suggest that you go out and get those people in Newfoundland and Labrador that can add that valuable contribution which is required.

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

MS. MICHAEL: Thank you, Mr. Speaker. I ask the Premier: What process will we use; they would not vote for an all-party committee, so we aren't allowed to tell them who to put on the commission.

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker. I think there's probably a step in the process that the Member opposite has forgotten about: the Public Service Commission. Resumes and people that are interested will feed into the Public

Service Commission. They will be screened and based on the experience and the technical ability that they would have to be part of some of our valuable boards and agencies that we would have in our province, then that would be taken to the commission that I am sure the Member opposite will be supporting in the next few weeks. With that, the names will be selected and the Independent Appointments Commission, we will use that process. We will put some great people in Newfoundland and Labrador, people that we have not seen. It will not be based on political patronage, as the Member opposite is suggesting, but we will have Newfoundlanders and Labradorians in the right place doing the great work that I'm sure they're interested in doing.

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

MS. ROGERS: Mr. Speaker, I ask the Minister Responsible for the Status of Women: Did she ask the Women's Policy Office to analyze and apply a gender lens to Bill 1, An Act to Establish an Independent Appointments Commission. If so, will she table that report?

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

MS. C. BENNETT: Mr. Speaker, as the minister responsible for the Women's Policy Office, I can assure the Member opposite that office was engaged in the construction of the legislation that we debated in this House last night. I'm very proud of the work that has been done by that office. I'm even prouder of the fact that, from an operational perspective, we've already begun conversations with important stakeholders to make sure that the opportunity for women to participate in the Independent Appointments Commission process is one that is taken advantage of by every woman in this province that wants to do that.

Question Period of May 19, 2016¹²

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

MS. ROGERS: Mr. Speaker, the Minister Responsible for the Status of Women said she had the Women's Policy Office apply a gender analysis to Bill 1, An Act to Establish an Independent Appointments Commission. Will she tell us what the recommendations were of that analysis?

MR. SPEAKER: The Minister Responsible for the Status of Women.

MS. C. BENNETT: Mr. Speaker, I'm one of the Members of this House, and certainly I'm flanked by my many Members of this House that are extremely proud of Bill 1, this government's first bill. From the perspective of my accountability and responsibility as the minister responsible for Women's Policy Office, we were engaged in the discussions, the formation of the bill. We had lengthy discussions about how to not only ensure that the bill provided the merit-based identification that we wanted, but also how we could, when we operationalize the bill, we could ensure that we had very much a focus on ensuring that boards, agencies and commissions reflect the community, including a gender representation. I look forward to executing that plan, Mr. Speaker.

¹² Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-19.htm>

Debate at Second Reading (Bill 1 of 2016)

Commenced on March 10, 2016¹³

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

MR. A. PARSONS: Mr. Speaker, I call Order 1, second reading of Bill 1.

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, I move, seconded by the Minister of Finance and President of Treasury Board, that Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, be now read the second time.

MR. SPEAKER: It is moved and seconded that Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, be now read a second time.

Motion, second reading of a bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments." (Bill 1)

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: Thank you, Mr. Speaker.

To say that I am very pleased today to stand in this hon. House to introduce Bill 1, I would say this is something we have been thinking about and we have had on our agenda for quite some time. It's gotten considerable discussion on the election campaign. The feedback has been very positive.

Essentially what it is, it is an Independent Appointments Commission and it will require a merit-based process before appointments. Why is this important, I guess, some people would ask? But if you think about in Newfoundland and Labrador, our agencies, our boards and commissions, they actually make up 43 per cent of the total of government's expenditures. That is 75 per cent of the total public sector employment. So that is a considerable piece of the activities and the action that goes on within our province.

To consider that these appointments to those boards, commissions and agencies should be done in an independent and based on merit is something that is extremely important to us as a government, because these associations and these organizations play an essential role in delivering a wide range of programs and services, including things like health care, education and housing, and a lot of the services that Newfoundlanders and Labradorians use on a day-to-day basis.

So to support the work of these agencies, the boards and the commissions, what we're looking for and what this bill will do is it will give a consistent, inclusive process, making sure that it's essential to ensure that the making of the decisions – the decision-making process – that impacts the people of our province is done in a very best and a very open and transparent way, and it's done by individuals who are the most qualified and experienced people that we have available

to us to fill those roles. So it really raises the concern and raises the level of accountability within our province.

As I said, we made this commitment during the election of 2015. Today, we are fulfilling that commitment by taking the necessary steps that are needed for government to modernize the current process for all those agencies, boards and commissions. As I said, they take a very active role in our society and an active role in what they do within our government and within our province.

We are focused. Our focus is to ensure that the appointments process is one that is based on merit and appointing the most qualified Newfoundlanders and Labradorians that are available to us.

I believe that Newfoundlanders and Labradorians support this approach. I also believe – because this is something that you really do not see in other provinces and within other jurisdictions – this is something you will see other provinces and other areas do something similar by nature, because this piece of legislation is not something that you could go in and research and pull off the shelf. It has really not been done to the extent that we are doing this in Newfoundland and Labrador.

Last fall, as we travelled the province and over the last four years, I would argue, many people have approached me as we talked often about this and talked about working on their behalf. They made it very clear to me that those appointments should be merit based, not political based, not done with a political bias or through a political lens. This here indeed would be a much better way to attract the most qualified Newfoundlanders and Labradorians who can do the work.

This is why we made the commitment and our government will change what has become a very tired practice of placing politics before qualifications. In the past, what we've had is a process that allowed for entitlements. It allowed for people to actually do favours for their friends, do favours, in some cases, for their family members. It really was not done on the merit-based process that it should be where we could get better decision-making processes within those boards and agencies.

So I am pleased today to announce we are launching this process. This essentially is step one in clearing a path that we would attract the most qualified people. They would be encouraged to apply and considered and then selected based on their merits and their experience.

Today in the House of Assembly we have brought in, and I am speaking now, to Bill 1. This is a fundamental piece of my work as a government. Now, there have been some people that have looked at this process that we've outlined today and they have argued and said we could go further and on and on it goes. It's like most legislation you see within any government. You start with a piece of legislation, which is groundbreaking, I would suggest – and of course you could argue, and some will probably argue, that the best thing to do is go back to the old way of doing things.

¹³ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-03-10.htm>

As a matter of fact, we had the former premier today actually suggest this is not the best way of doing things. Well, I would say if you compare the former administration, their way of doing things, their practice, based on what we are suggesting here and we would hope to do, I think this is quite different. This is a much better process. This is a process all other previous administrations had the opportunity to implement. Often people talked about it, but there was no action on this until today.

We have made this a priority and we have expressed to Cabinet we would like to see this move swiftly. This is important. There are some big decisions to be made in this province. And as fast as we can get this process established, it is then we will get the people in place to represent us on those boards and agencies that can do the best job, based on merit, based on the experience, based on their technical abilities to make decisions and to help inform Newfoundlanders and Labradorians.

What will happen is, upon passing of this legislation, we will set the wheels in motion to have this independent commission in place. Once it is in place, Newfoundland and Labrador, as I said, will be the first Canadian province to establish a legislated, merit-based appointments process. This will be a fully accountable and transparent process, which is the bedrock of my government and guides us in our actions. This legislation and the accompanying work reflect on that commitment.

As part of this legislation what you will see is this: you will see a five-person, non-partisan, Independent Appointments Commission to be created. So a question would be: Why is it five people, and how do we get to the start line with those first five people? Well, once we identify who those suitable candidates will be, those five individuals, we will bring their names forward to this House of Assembly where there will be a vote among all Members. This team will review candidates and recommend the three most qualified individuals, adding a level of independent review to the government appointment process.

Once we bring the five names to this floor, each and every single Member in this House of Assembly will have an opportunity to say aye or nay to support those individuals or not. This will be the opportunity because this will give you your say in the selection of the Independent Appointments Commission.

There are five people, five names that will be brought forward. From that, the chair of this commission will then use three people as part of the selection committee for the individuals that would be considered or screened through this. The Public Service Commission, of course, will play a huge role as well.

I have insisted that the members of the commission be accountable, have the necessary qualifications and use their experience and adhere to the objective to uphold the principle of a non-partisan, merit-based appointment process.

You could find yourself at some point where you have five individuals in what is relatively a small province and people know each other. If at any time any of those five individuals feel that they would be in a conflict or should not be part of this selection process, well, then they would declare that conflict and exclude themselves from that.

So you will see three people that would be included: the chair and two others. Even at some point the chair might decide that he's not appropriately placed to it. So they have the

flexibility, two extra people, two extra commissioners, that we would use those three people then.

The first step would be that the Public Service Commission would screen out the list of candidates. There will be a website that we put in place for people to put their own names forward, based on the criteria and the skills and the technical needs that this would be developed and put in place by the various departments. The departments will look at the positions that will need to be filled. They will put the necessary skills, what you would need to do the job, at this particular board, agency or commission. You could actually then self-nominate. That would be put into the selection process.

The Public Service Commission would be the first point of entry. Then any names that would come out of this would be given to the Independent Appointments Commission and they would do further screening, further vetting and then there would be up to three names that would go to Cabinet as a recommendation.

Added to this, they will also recommend individuals for the head of the province's statutory offices. These are people like the Child and Youth Advocate, the Privacy Commissioner, the Consumer Advocate and so on. These are people, too, that we will add to this process, once again taking the politics out of some of those appointments.

That's not to say, Mr. Speaker, that we do not have some good people already in those positions. We have Newfoundlanders and Labradorians who have done a great job for many years, but it's been through a very different process. I think this particular process we are outlining today adds a very unique touch to this and it's one that we are very proud of.

The agencies, the boards and commissions, it will be tier one. When you think about that there are about 1,200 board members that could be affected here or that would be affected here and well over 200 every year. So you can tell there are quite a few people who are impacted by this.

As I said, they represent a large part of the work that has happened within government; 43 per cent of the total expenditures and 75 per cent of our total public employment. So it is a big task when you look at the numbers of boards and commissions and agencies that we will be filling those positions on. These are the tier one agencies. So you say really what is tier one? How do you define a tier one? What makes tier one different than, let's say, a tier two or so on?

Well, these would be the boards that would actually handle quite a bit of money. They would have big influence on the affairs and the future of our province. They handle quite a bit of the activity, as I say. They would be boards like Nalcor, like NLC, like Housing and so on, many, many boards and they are listed in this piece of legislation.

They are chosen to be tier one. It's based on a number of factors, as I said, including their authority to make decisions. We have empowered many of those individuals to make some very important decisions on behalf of Newfoundlanders and Labradorians, and they impact the public. Their decisions impact the public in a significant way.

Some examples, as I just mentioned, that being Nalcor, Newfoundland and Labrador Hydro, Newfoundland and Labrador Housing, the Liquor Corporation, MMSB, the College of the North Atlantic, Regional Health Authorities and so on. So you can tell just by the magnitude of the boards I just

mentioned the number of people in Newfoundland and Labrador they impact.

For these organizations, the Public Service Commission will provide a list of individuals to the Independent Appointments Commission. What would happen is if you were interested in being a chair of a health authority or so on, you would submit your name, self-nominate. There would be people, I'm sure – I would expect Members in this House would do their own and encourage people and recommend individuals within our province to think about putting their name forward.

The names would be recommended. You would put your name forward to the Public Service Commission. The first step vetted there. Once you identify the group that would have the technical experience, merit based, to move on to the Independent Appointments Commission, well that would be step one, and the Independent Appointments Commission would be step two.

Once the Independent Appointments Commission has made their decision, they would make their recommendations to Cabinet. The final decision would be made there with the authority on these decisions. We've been receiving some questions today such as why won't you just not let Cabinet make any of those decisions? The recommendations would go up and the Independent Appointments Commission would not really appoint three at all; they would just appoint those individuals.

Mr. Speaker, we go through an elections in our province right now and the authority – and I heard it just yesterday in this House here when many Members opposite said get on, govern, do the job of government, do your job. Well, part of doing your job is making sure that you have the right people in place.

The selection committee – through a two-step selection committee, one through the Public Service Commission, then into the Independent Appointments Commission and they make the recommendations to Cabinet. So then they would say the Cabinet has the last say. They're just going to give people the boot. They're not going to accept the list from the group that we had a discussion for in this House of Assembly.

You think about the message that would send to those people who volunteered, those five people, not paid, as I said, not compensated for the work they do. I can tell you, Newfoundlanders and Labradorians that I know, they will tell that Cabinet where to go because this is where they would be going after putting in hours and hours of volunteer work, making recommendations to a Cabinet. If at any time Cabinet was repeatedly rejecting those names, well, I'll guarantee you, I'm willing to bet now that those people would not stay there. That would ruin the integrity.

The people that I know on this side of the House, this is not where they're going. This is not where we're going with this. It would be, if at all, a very rare occurrence when you would see names that would be selected from the IAC, that those names would be rejected.

The objective here is to help us with a selection committee so that we can put the best people in place to help inform Cabinet, so Cabinet Members, like we've seen in the past, cannot go out and tap on the shoulders of their friends, call up their buddies, call up their family members in some cases, and say, come on, I've got a little job here, you're entitled to it because you've helped on my campaign, or you've done this here, or you've done something for us so it's now my time to give back to you. This selection process here takes all of that out of the way.

AN HON. MEMBER: Merit based.

PREMIER BALL: It is merit based.

Our objective here is to give Newfoundlanders and Labradorians the confidence in the actions of their government. It is now time to take the politics out of these government appointments. It ensures accountability, it ensures transparency and there will be an open communication process.

What happens there is on an annual basis. What you will see is an activity report that will come to the floor of this House of Assembly that will give us some idea of the work this commission has done. It will be here on this floor that that report would be submitted.

Following the Cabinet and ministerial appointments, the names of the individuals then would be posted on the website. An Order in Council would also be issued for appointments made by the Lieutenant Governor in Council which are available for the public online. These names will then be made public once the recommendations and the selection has been made.

These appointments will be fully public. There will also be an activity report, as I just mentioned, in accordance with the *Transparency and Accountability Act*.

A review of the Independent Appointments Commission; there would be an automatic review of the Independent Appointments Commission after five years. So let's not lose sight of that. On an annual basis you get your activity report, and then there's an automatic review of the Independent Appointments Commission after three years.

They are appointed for three years. So the first appointment you would see – Independent Appointments Commission, their names would come here for a debate on this floor. So your first commission gets put in place. Subsequent commissions would be this – or if somebody resigned for some reason or had to move on, which will happen over time. What will happen is you can be reappointed for a second three years but any new Independent Appointments Commission will go through the Independent Appointments Commission process themselves. So there are lots and lots of belts and braces, as they say, here to be open and accountable to the people of our province.

When I talk about how we would see vacancies, of course this will happen over time, if indeed through the Independent Appointments Commission. So this actually closes the gap and provides a process for even that to occur.

To support the Independent Appointments Commission, there's a group that I really want to spend some time talking about because they've done a great job providing a very great service for the people of our province and that's the Public Service Commission. They will serve as the secretariat and will work with government departments to develop skill and qualification processes for each agency, board and commission.

What this group will do, they have the knowledge of all our boards, all our commissions and our agencies. They will develop a profile so that anyone who's interested in giving back to their province in a volunteer capacity, or in some cases serving on those boards, what they would do is put their name forward along with their resume, as an example. It is there, then, that the Public Service Commission will do the job that they have been doing for years, and will do a

very good job in making sure those people have the right skills, merit based, for this appointment.

By availing of the experience of the Public Service Commission we are creating an independent commission process that won't incur costs associated with recruiting additional employees, finding office space or purchasing equipment. What we did not want to do in all of this was put a layer of expense on the people of Newfoundland and Labrador.

We used what's working for us already: the Public Service Commission. It is working; it has the resources within that to be the secretariat for this Independent Appointments Commission.

We will use the expertise, the equipment and the people who are already there, rather than go out and set up a layer of bureaucracy. It is something that we did not want to do. This is a very cost-efficient way to do this and we still have the independency of the Public Service Commission. I would say it's not a very popular room to be in, if you had someone on this side of the House suggesting we should spend more money. I assure you that the current Minister of Finance would be clamping down on that anyway.

The Public Service Commission Act – they protect the merit principle in all appointments. They do this already. There is legislation in place for them to do this. They protect the merit principle in all appointments and promotions within the public service and are, therefore, already well positioned to take on the additional role in this process that we are suggesting here today.

Departments and agencies are required to adhere to standards and procedures. We already know that. These procedures are outlined and in many cases it is already publicly known. The Public Service Commission will hold an open call for applications through its website and social media to seek qualified candidates. As we know right now – and we see this with the Government Renewal Initiative – we are seeing many, many people reaching out on our Dialogue App, through email, through our website and engaging in the work of government these days, putting forward many ideas.

What we would see here, in an electronic sense, is a website where people can bring their resumes forward. You'd create that library of people, those long lists of names; people who are interested in giving back and feel qualified to give back to their province so that we can get better informed, better people making the decisions that impact the lives of Newfoundlanders and Labradorians.

The Public Service Commission, as I said, will hold this open call. This is ongoing because what we see at various times in boards and agencies, the board members expire at different times in different years and different times of the year, as an example. So all the information based on when terms expire, what is required for individuals to serve in these capacities – all that information would be available on the website.

You could also look at using platforms, of course, within our own communities and within our own business and labour organizations. What happens is many of those boards and agencies impact the business community. They impact organizations that advocate for Newfoundlanders and Labradorians and our communities there as well. It is important they be part of all of this as well.

Through them, and links through their own websites, as an example, we can actually broaden the reach substantially by adding to the networks that already exist within our province. Mr. Speaker, the boards and agencies such as I mentioned

earlier, many of the groups that work and provide services such as advisory councils – well, just as an example – and disciplinary boards, they also go through the Public Service Commission that we are seeing right now.

I've talked a bit about tier one. Then we have another group which would be tier two. There is a long list. If you go through the legislation you would see various pieces of legislation that actually connect to the boards and agencies within our province. These lists are extremely long. Appointment to the tier-two bodies will be subject to the Public Service Commission as well, who will then make recommendations to the respective minister for his or her approval.

As mentioned earlier, the process for tier-two agencies, boards and commissions will also be based on merit, but I want to be very clear tier two will not go to the Independent Appointments Commission. The reason for that is just really the magnitude of people and the number of names, and based on the level of budgeting process, as I said. I mentioned earlier the impact our tier-one agencies have. Tier-two agencies are extremely important to Newfoundlanders and Labradorians. They do a great job. In many cases, volunteering as well.

The tier-two process will be through the Public Service Commission where they will be screened there. It would be literally impossible to put all tier-one and tier-two appointments through the Independent Appointments Commission at this time without adding significant, significant resources – financial resources as well as human resources – to this process, I say, Madam Speaker.

In addition to building a skill and credential profile for appointments under this process, the Public Service Commission will be expected to conduct all necessary background checks for recommended appointees. They will also put in place a process to report any conflicts of interest. As I said, there are more than 1,200 positions based on the previous years. We expect about 250 appointments annually, and that's to tier-one boards. You can imagine what it would be with tier-two boards added to this.

Madam Speaker, you can tell that this is a very extensive process, one that we are very proud of here, very proud to introduce. I would say that this is really step one. Like any legislation we would see that makes it to the floor of this House of Assembly, this is, indeed, a groundbreaking piece of legislation.

I would imagine, over time, legislation evolves. Once you get a chance, as I said in the interview today, to test drive it, there may be ways that over time it will change and evolve and be improved upon. Right now we are very pleased that we are to the start line, which is something that has never been done by any other administration in the history of our province.

We have now taken the steps to take the politics out of political appointments. It is fair. It is a measured process, one that will provide this. It will provide greater consistency, greater transparency, improve organizational performance. You will have better people who are more experienced, merit based and the technical experience to make the decisions that are so important to Newfoundlanders and Labradorians.

I also believe that it will enhance the quality of public services and the public confidence. I believe that we will see – simply because people now understand that they have a chance to serve Newfoundland and Labrador, people that have often

felt because they were not of a particular political stripe, that they had no chance. This here opens the door.

This process opens the door for all Newfoundlanders and Labradorians to be engaged, to have their say and be able to use their ability and the experience that they would have, no matter where they live, and give them the opportunity to do their job and return some service back to our province.

I believe it provides a meaningful experience for our appointees. The process will be a good one. Through the debate – and I look forward to the debate and the questions that we will see in this House of Assembly, Madam Speaker.

So debate, I guess, will continue and the decision will be made. We have some important decisions that will need to be made impacting Newfoundlanders and Labradorians. I look forward to the debate on Bill 1.

Thank you, Madam Speaker.

SOME HON. MEMBERS: Hear, hear!

MADAM SPEAKER (Dempster): Order, please!

The hon. the Member for Mount Pearl North.

SOME HON. MEMBERS: Hear, hear!

MR. KENT: Thank you, Madam Speaker.

It's a pleasure to rise and speak to Bill 1, which, in a new session of the Legislature, tends to be the administration's flagship piece of legislation. It sets the tone for the administration and for the session of the House of Assembly. The Premier and several ministers this morning acknowledged that this was legislation that they're really proud of and it will be one of the hallmarks of their government.

We were briefed on the bill this morning, and I want to thank those from Executive Council and from the Public Service Commission who provided us with a briefing on the bill. Several Members of our caucus also had an opportunity to attend a news conference that the Premier held earlier today where he and his ministers outlined this bill and the reasons for it.

Unfortunately, Madam Speaker, while I understand the new government is very proud of this piece of legislation, we do have some major concerns about the bill in its present form. The beauty of this legislative process is that there'll be lots of opportunity for debate and discussion and ideas, and perhaps we'll even be able to amend the bill to make it work. We're not standing today to say that we're opposed – I'm not standing today to say that I'm opposed to some kind of independent appointments process.

The concept is an interesting concept; I'm all for openness and greater transparency. I'm a big believer in open government, despite the fact that it's seemingly not a priority for the new government, as the Minister Responsible for the Office of Public Engagement has acknowledged.

I think a new name for this bill is actually in order, Madam Speaker. It will be ruled out of order, but in my mind it's in order. An act to justify Liberal political and patronage appointments seems like the more appropriate name for the piece of legislation.

What was most frightening about what I heard this morning –

SOME HON. MEMBERS: Oh, oh!

MR. KENT: And despite the heckling, I'll make some general comments about what I observed about the legislation and then I'll go into more detail during my time today –

SOME HON. MEMBERS: Oh, oh!

MADAM SPEAKER: Order, please!

MR. KENT: So when somebody submits to the Public Service Commission and says, I want to get involved in one of these agencies or boards or commissions, beyond the point of submitting their application, there's absolutely nothing that's public or transparent about the process. Beyond that, it's a secret, confidential process. That immediately, from our perspective, sounded the alarm bells.

What we're going to have is a five-person commission that's basically made up of political appointees. So those five people will be identified by Cabinet and then we'll get to rubberstamp it in the House, but government, of course, has a strong mandate and they decide what bills get passed in this House. And they have a majority, which allows them that right, so it's really a formality that we would have a debate on those appointments in this House of Assembly.

I'm just going to highlight some of the things that are most alarming about the bill. Then if time permits today, I'll hopefully get to go into some further detail. I would encourage hon. Members to have a look at the *Public Service Commission Act* as well, because this Bill 1 makes major changes to the *Public Service Commission Act*. In fact, section 19 onward in this bill is all about changes to the *Public Service Commission Act*.

What's really concerning, though, is that buried in this piece of legislation is a very large schedule called Schedule C. It lists something like 130 agencies, 130 boards, 130 commissions, 130 committees that will be exempt from the new Independent Appointments Commission that the government is creating.

The Public Service Commission will play a role. Granted, the Premier acknowledged that today, but this wonderful, new, supposedly Independent Appointments Commission will not have anything to do with 130 appointments related to agencies, boards and commissions. The appointments for those 130 agencies, boards and commissions will not be subject to this new Independent Appointments Commission. That's a real concern.

For that select group of tier one – as the Premier describes – those tier-one positions that will go to this supposedly Independent Appointments Commission, it's not about making sure we get the best person for the job. It's not ultimately about the merit-based process that the government is suggesting. If you wanted the best person for the job, you'd have a process that identified the best person for the job, but instead the Independent Appointments Commission will recommend three names. They won't rank them. They won't prioritize them. They'll simply submit those names to Cabinet.

Cabinet ministers and the Premier made it clear today that there will be no disclosure of who those three names are or what process Cabinet goes through to pick among the three, which despite the extensive process by this Independent Appointments Commission – made up of, I'm sure, well-intentioned volunteers who are going to do their best to do a good job – despite that whole process, at the end of the day

nothing is really changing, Madam Speaker. The government, the Cabinet, behind closed doors, will make the appointments.

If you really wanted the best person for the job, wouldn't you ensure you had a process that identified the best person for the job? So you're going to get three, presumably, qualified people. Because I'm sure the commission would do a good job of identifying good people; let's assume that much. But at the end of the day, the decision about who gets appointed among those people that are submitted on the list – well, the list is a secret. The process for selecting the person from that list is a secret. At the end of the day there will be no transparency around that and we cannot at all have assurance that the best person has been selected. If we were truly committed to a merit-based process that identified the best person for the job, why wouldn't we have a process that identified the best person for the job, as opposed to a list of names that Cabinet can secretly pick from?

Again, I need to make it clear that we're talking about two lists of agencies, boards and commissions. The ones that were described today as tier one, the Independent Appointments Commission will touch those and will make a recommendation of three names, not ranked. They'll present three names and then there will be a secret process by Cabinet to determine who they appoint. We'll never know what the recommendation was, but we will know ultimately who gets appointed, of course.

Then the real concern is that there's a tier-two list of 130 agencies, boards and commissions where the Public Service Commission will just provide, at a minister's request, a long list of people that are recommendable – not recommended, but recommendable. A minister will probably encourage people to apply, logically. They will go to the Public Service Commission and say, give us a list of everybody who is recommendable, who the Public Service Commission has deemed appropriate, and then they'll pick whoever they want.

What was also suggested in the briefing this morning is that many of those appointments, Madam Speaker, will not be subject to any Cabinet process whatsoever. Individual ministers will simply make those appointments at will. Some specifically have to be appointed by the Lieutenant Governor in Council, so those presumably would continue to go to Cabinet. For many other appointments that are of a routine nature, it's quite likely that ministers will simply do their own thing, get the long list from the Public Service Commission and make an appointment.

How is that independent? How is that merit based? How has that done anything to actually improve the process? I respectfully suggest, Madam Speaker, that it doesn't improve the process at all. I think the attempt to create an independent process is a good thing. The attempt to make sure that the process is as open and transparent and as inclusive as possible is a good thing, but this bill falls short in so many ways.

The Premier today accused – I don't know – someone on this side of questioning the integrity of the Public Service Commission. I can assure you that Members in our caucus have great respect and a good understanding of the work of the Public Service Commission, given some of us have been around government and around the various government departments for a while.

The Public Service Commission does good work; there's no doubt about that. But what we're opening the door to is the risk of political interference in a process that has been very

respected and respectable to date. I don't think any political involvement in the Public Service Commission is a good thing, and I'm surprised Members would suggest it is.

Another major, major concern with this piece of legislation is the non-binding nature of the whole thing. At the end of the day, despite the smoke and mirrors and despite the illusion of something that's non-political and independent, we've got a process that in every respect is entirely non-binding. So for tier-one appointments that actually do go through the Independent Appointments Commission – unlike the 130 agencies and boards and commissions that won't – for those that do, at the end of the day there's nothing binding.

SOME HON. MEMBERS: Oh, oh!

MR. KENT: Obviously my criticism is upsetting Members opposite. But to see the Premier and Members on his front bench heckling during this debate on his flagship piece of legislation, Madam Speaker, I think it highlights some of the concerns that we do have.

SOME HON. MEMBERS: Oh, oh!

MADAM SPEAKER: Order, please!

Order, please!

MR. KENT: The Premier went as far today, twice in his news conference today, to suggest we should rush this through the House of Assembly. At two different points in the news conference today, and perhaps the New Democratic Party made the same observation – I know they were well represented at the news conference as well – it was suggested it would be up to us to move this through the House quickly because government wants to get on with it. I think that's very concerning. I think the attitude that seems to be expressed here today from across the House is very concerning.

The fact that every aspect of this will be non-binding and at the end of the day Cabinet or ministers can do as they please means there is nothing independent about it, Madam Speaker. There's nothing non-political about it, and there's nothing merit based about it at the end of the day if Cabinet can do what it wants. I respect the fact government is elected to govern and Cabinet has to make decisions about who to appoint to different offices and roles. I respect that.

There are all kinds of reasons why you would appoint or not appoint somebody to a specific role. That is the right and the prerogative of government; I acknowledge that. But I do think the concept of an independent process for appointments and opening it up is a good thing as well. This bill does absolutely nothing, Madam Speaker, absolutely nothing, to take the politics out of appointments.

This new Independent Appointments Commission, or IAC as I'm sure during this debate it will become known – we have lots of acronyms in the House of Assembly and throughout government. This new Independent Appointments Commission isn't at all independent. Government controls who's on it. Beyond that, at the end of the day they have no teeth.

Any of the recommendations they make are non-binding. They have zero authority to make appointments. So isn't it incredibly ironic that the flagship piece of legislation, Bill 1 of the new administration, the very first campaign promise that was made by our new government was about creating something that was independent and would take the politics out of appointments.

Well, Bill 1 ensures that politics always, always, always trumps process and trumps any kind of independent process, Madam Speaker. Bill 1 ensures there will always be – it actually puts into legislation a process that ensures the decisions will be political at the end of the day, and politicians behind closed doors in the Cabinet room or ministers in their own offices by themselves will make appointments.

I suspect that like the Premier did at length today – will say previous governments have done badly and we're going to improve the process. The problem with that argument, Madam Speaker –

MADAM SPEAKER: Order, please!

The Speaker is having trouble hearing the Member.

MR. KENT: Thank you, Madam Speaker.

I'm having trouble hearing myself because of the noise, laughter and heckling opposite, which, I guess, sets the tone for this new administration that was supposed to take a new approach to the Legislature and how business would be done, and to appointments. Unfortunately, at the end of the day we now have a bill that will ensure politics always trumps process. That's really, really unfortunate.

I think, Madam Speaker, during the course of debate, and perhaps because they're so upset, I've struck a nerve. I think during the course of this debate we will discover, and people in the province will conclude, that this is smoke and mirrors. There's nothing non-partisan about it. There's nothing non-political about it. There's nothing independent about it.

Madam Speaker, what is non-partisan –

MADAM SPEAKER: Order, please!

MR. KENT: Thank you, Madam Speaker.

What is non-partisan about allowing Cabinet and individual Cabinet ministers, in the case of the big tier-two list, to hand pick from a list of candidates? How is that non-partisan if politicians are making those decisions at the end of the day behind closed doors? How is that independent? Why bother, if, at the end of the day, nothing is really changing?

It was interesting today to hear ministers and the Premier talk about the need for an exhaustive communications process around this bill. I suspect they're going to have some really careful communication stickhandling to do on this piece of legislation.

On one hand, there is a need for extensive communications; yet, on the other hand, the Premier of the province on Bill 1, on the flagship piece of legislation, asked the Opposition Parties in this House – on two occasions today in his news conference – to rush the process, to actually ensure that this debate doesn't take a long time because they want to get on with it.

It is what it is. Well, from our perspective that's not good enough. It isn't what it is. We have to challenge. We have to ask questions. I'm all for making our processes better, but this bill really falls short in so many ways.

The Premier and ministers were challenged repeatedly today about the fact that Cabinet can simply make appointments. Even though we're establishing legislation, amending the Public Service Commission Act and going through a process in this House where these commissioners will be formally

appointed, at the end of the day Cabinet can still do what it wants. That is outlined in the legislation.

Do you know what the government's response to that was over and over again this morning, Madam Speaker? They said we don't expect it to be a regular occurrence. So it will happen, it is bound to happen, but we are not going to do it too often. Just trust us and we'll make the decisions, follow the process and at the end of the day still appoint who we want when we do follow the process.

The Finance Minister described this bill as significant change. The challenge at the end of the day, Madam Speaker, is that there's no evidence to suggest that this is any kind of real change at all. If at the end of the day the decisions are still going to be made behind closed doors, in secret by Cabinet, and none of the work that this new commission is going to do is binding – and there are going to be 130 agencies, boards and commissions in this province that aren't even subject to that process – I don't consider that to be significant change.

For a government that claims to be open and says that they're going to change the way government does business, even though they've placed the Open Government Initiative on hold, the list of three names that's going to be put forward by the Independent Appointments Commission for those tier-one groups that are listed at the back of the bill, they're not going to be made public. Unless the individual candidates themselves decide to disclose that they were shortlisted and put forward by the independent commission, we'll have no way to know what names were considered and what process was followed, if any process was followed, to select the successful candidate. We won't even know if one of those three people has been selected. Cabinet can still choose to ignore that process, and there's no mechanism for that to be disclosed.

I do feel this is an important point, Madam Speaker. If Cabinet chooses to ignore the three names and just go its own way, it rejects all three, appoints somebody else, throws out the recommendation, whatever the case may be, there is absolutely no mechanism in this piece of legislation for that to be disclosed. We will never know.

The Premier's response should concern every Member of this House. The Premier's response should concern the public as well. His solution to that gaping hole that was identified after a quick review of the legislation for the first time this morning, the Premier of the province said this morning he expects the independent appointment commissioners to complain, to make noise publicly, or to resign if Cabinet doesn't respect their wishes. So he expects that will happen rarely. He expects it would be rare, but he expects the Independent Appointments Commission that will ultimately be rubber-stamped by this very Legislature, should resign or make noise publicly if the process isn't respected. Now, that doesn't seem like a logical, or a fair, or a reasonable or a respectful solution, Madam Speaker.

The bill, Bill 1 – and I encourage members of the public to go online and read the bill – we have it in front of us, hopefully. I would encourage the public to read the language in the bill. There are two instances in the bill itself in the language of the legislation that clearly states Cabinet can ignore the recommendations. So this is independent and open and non-political, but twice in the piece of legislation it says Cabinet can do what it wants.

I'd encourage people to have a close look at the language that is suggested. Some of the arguments against this bill are actually just written in the bill. That's a perfect example where in two instances it says Cabinet can just do what it

wants. That would suggest, Madam Speaker – and I hate to have to suggest it, in all honesty, but that would suggest this is simply window dressing, that this simply is smoke and mirrors.

Really, this is a bill that's shrouded in Cabinet control and secrecy. Again, I respect the fact government is elected to govern, and this government has a very strong, clear mandate from the people of the province. We respect that. But you cannot argue this is non-political and independent if it's still all about Cabinet control and a secret process.

When questioned this morning in the news conference, and hopefully – based on how the news conference went, I doubt the full thing will be posted online for people to see. I hope it is, because the Premier's response to that question for media about Cabinet control and secrecy was: that's the way things work. I'm quoting the Premier of the province, Madam Speaker – that's the way things work.

There was an impressive lineup this morning. Clearly, government is committed to this piece of legislation. The Finance Minister, who is responsible for the Public Service Commission, as well as the Government House Leader, answered questions and gave a detailed presentation with the Premier this morning.

The Minister Responsible for the Office of Public Engagement was noticeably absent from the news conference. I recognize that given the size of Cabinet and the reduced number of Members in this House, Cabinet ministers have quite a burden. They're carrying multiple departments in some cases and it's undoubtedly a heavy load. For something that's supposed to be about openness and transparency and changing the way government does business, this feels like it could be a really good Open Government Initiative.

Unfortunately, the Minister Responsible for the Office of Public Engagement was absent. In fact, I'm told that the only thing going on in the Office of Public Engagement these days is the Government Renewal Initiative consultation process. I think we've got 13 or 14 more months to go of that process, so very concerning and I think worth noting.

Madam Speaker, how can you say that you're taking politics out of a process, if, at the end of the day, as outlined in several places in this legislation, Cabinet can simply do what it wants. I don't think you're taking politics out of anything, if, at the end of the day, Cabinet ministers are going to make decisions behind closed doors from a list of people that's not even ranked by this independent process.

What I saw this morning was rather concerning. The government is setting the stage already to make exceptions and to set up circumstances whereby they can simply bypass this process or throw out the recommendations. Repeatedly, we heard language like extraordinary circumstances and rare occurrences and exceptions will be very rare. It was said in this hon. House. It was said in the news conference today. We even heard that kind of talk in our briefing this morning.

It's great that government wants to get on with it and wants to rush the debate on this bill, but that should be cause for concern as well, Madam Speaker. The fact that the Premier of the province would suggest twice in a news conference that we should simply get on with it and move this process quickly, should cause people to reflect on why that would be.

Madam Speaker, if all decisions, as a result of this new process that's not really that new or different – if all those decisions come down to politicians behind closed doors, how can you ever claim that that's non-political?

Madam Speaker, again the Premier kept saying that the members of this commission should resign if Cabinet doesn't respect the process. That's yet another red flag. So on one hand we should rush this, on another hand we're hearing lots about rare occurrences and exceptional circumstances. There's nothing binding about the legislation. The Premier says, well, the members of the commission should just resign if the process is not respected. If you don't like our decisions you can resign. That doesn't feel like a non-political process and independence to me.

Relying on commissioners resigning to ensure the integrity of the process, that's what the Premier is suggesting we do, Madam Speaker, and I find it offensive to be honest. You can't possibly say that anything about this is independent. You can't possibly say that anything about this is non-political.

Cabinet gets to pick names from a secret list. One of the ministers this morning, I believe it was the Finance Minister, and the Premier said it in debate today, talked about how proud they were of this piece of work, the Finance Minister said. Well, Madam Speaker, I'd suggest this is a piece of work, and there's a lot more work to be done before this bill should ever pass in this House of Assembly. There are some major concerns and major holes that I think need to be addressed, one of the biggest being that there's 130 agencies and boards that are exempt from the process.

One of the questions the media asked today, I think for good reason, is: Can we expect that not a single high-profile Liberal will be appointed to this five member commission? Unfortunately, the Premier wouldn't answer that question. He did make a comment about looking for the best people to serve, but there was no commitment to not appoint high-profile Liberals.

Maybe there are some high-profile Liberals that are perfectly qualified to do this work. I'm not sure one should suggest that they should be exempt from being part of the process just because of a past or present political affiliation. We live in a relatively small place, and we have lots of examples even in this hon. House of people wearing multiple political stripes. I'm not sure of the fact that somebody was once or is currently associated with a political party be a reason to completely disqualify them from being appointed either. That doesn't make a lot of sense, Madam Speaker.

One of the questions that was also asked by the media today was: Can you tell us what agencies and boards and commissions are not covered by this legislation? There's a long list at the back of tier-one agencies, boards and commissions. In the big Schedule C, in the middle of the bill, there's a whole bunch of other committees and boards and commissions and agencies, but we could not get an answer from government in the news conference today. The media could not get an answer around which agencies, boards and commissions would not be covered.

It was certainly our sense from talking to officials in the briefing that it was the intention to capture them all. So I respect that and I accept that at face value. I just thought it was interesting that the question wasn't answered at the news conference today.

One of the things that trumped this morning was that this will all be no cost. We are not going to pay people to do this work. These five people will appoint hundreds – they won't appoint anybody. I am sorry, Madam Speaker; I misspoke. They won't appoint anybody. They will make lots of recommendations that may or may not be accepted. They will

do it out of the goodness of their hearts. They might get their gas covered or hotel nights, if required, or meals, but they won't be compensated for their time in any way, shape or form.

I get that there is limited cost then to those folks doing that work. But is government suggesting that now the Public Service Commission is going to be involved in potentially thousands of appointments? If you look at the list of hundreds of committees, agencies, boards, councils and commissions, they are going to be involved in screening potentially hundreds if not thousands of applicants. There is going to be – I would say on a monthly basis looking at that list – dozens and dozens of appointments and processes. Are we suggesting, are Members opposite suggesting, is the Finance Minister suggesting that the Public Service Commission already has that much extra capacity that there are no additional resources required to administer something like this? That is cause for concern as well, Madam Speaker.

From what I can recall, the Public Service Commission, which does really good work, doesn't have a lot of people sitting around looking for work to do. There is plenty of work. With the upcoming layoffs, perhaps the Public Service Commission won't be as busy. Maybe they'll be involved in supporting some of that process with the Human Resource Secretariat. But to suggest that the Public Service Commission has the capacity to all of this work with no added cost, I find that hard to believe, Madam Speaker. We are talking about thousands of appointments. What is suggested if there is no added cost, no additional burden, then that can all be done with existing resources. I think some more questions need to be asked about that as well.

Madam Speaker, I was disappointed that the Premier would accuse us of questioning the integrity of the Public Service Commission. It is not the Public Service Commission that we are worried about; it is the fact that this is really just a facade and the end of the day the decisions will be made by politicians behind closed doors.

The Premier today in the debate in second reading, less than an hour ago, suggested that previous governments – in fairness, he wasn't specific about the most recent previous government, but he did say the previous governments probably appointed family members to some of these roles.

Now, Madam Speaker, I recognize that governments over time have appointed people who have been involved maybe in the political party, maybe they've been supporters of a given administration, and like I said somebody shouldn't be disqualified from a process because of their political affiliation. I think that would fly in the face of a process that's independent, but to suggest that previous governments appointed family members, for the Premier of the province to make that kind of statement in debate today is disturbing – like lots of aspects of what we've heard so far today.

This legislation was described by, I believe, the Premier as being groundbreaking. I'm not sure, Madam Speaker. I would suggest that we're not on solid ground at all with this piece of legislation and that much debate is going to be required in this hon. House. Perhaps we can fix the bill. Perhaps if we're truly committed to being non-partisan and non-political, perhaps we can work together in this House and come up with a bill that does establish a process that's objective and independent and transparent, and reduces the amount of political involvement and even interference.

It seems like a great opportunity to take the politics out of that process. Why couldn't we work together? If we want those five commissioners to be independent, why couldn't all

parties play a role in identifying who those commissioners should be, as opposed to simply rubber-stamping the government decision in this House? Wouldn't this be a great piece of legislation to send to a committee?

I know in the Liberal election platform there was a real strong commitment made to improving how this House does business and ensuring that there are effective legislative committees so that all Members of this House, people who have lots of passion and energy and skills and perspective and experience, can all play a meaningful role in advancing legislation and crafting legislation and making changes to legislation that comes before this House.

So wouldn't this be a great opportunity to strike a committee of this Legislature to look at this legislation? If we are actually committed to making it non-political and non-partisan, then why not have Members of the governing party who would logically have a majority on the committee anyway – it makes sense; they've been elected to govern. Why not have representation from the Progressive Conservative caucus and the New Democratic caucus to actually make some changes to this bill and maybe get it to a point where we could unanimously support it?

It's early days. We only saw the bill late yesterday. We received a briefing several hours ago. We attended a news conference at 12:30 today. So we need to take some more time to analyze this bill, which is another reason why the suggestion that we should rush it through the House is kind of bizarre.

Let's consider the possibility of striking a committee to take a close look at this. Government can control the committee. Government sets the legislative agenda. Government can have the majority of Members on the committee. But why not involve Members of the Opposition caucuses in reviewing this bill and trying to make it work? I think the concept is commendable. I have no problem with exploring some kind of independent non-partisan process for appointments, but I think this bill falls short in many ways.

I'd like to go in a little more detail, Madam Speaker. Given the sentiments expressed by the Premier that this process will be rushed I want to take advantage of the time I do have, my only opportunity in second reading, to speak to this legislation.

MR. A. PARSONS: (Inaudible.)

MR. KENT: Yes, the House Leader acknowledges that we will have time in Committee. I look forward to that. That, as he well acknowledges, I'm sure he will acknowledge, is a great part of the process because it does allow us to get into the nitty-gritty.

Maybe we can make the bill better. Maybe we can address some of the concerns that I've raised. Maybe Members opposite will be willing to speak to some of those concerns we've raised and maybe work with us to find solutions when we get to the Committee stage, so I do look forward to that. We will take time to analyze the bill and figure out if there is any way to make it work, but some of the concerns that have been identified are quite significant.

All the bill does – it does not ensure independent appointments. It's a bill that serves to create a commission that will make recommendations. They're not ranked. They're not binding. They're not even going to be publicly disclosed. Ultimately, the decisions will still be made at the Cabinet table.

If the Liberal government was serious about taking politics out of appointments, which is something they campaigned heavily on, promised to do – they said they were going to make sure that happened and politicians would be removed from the process – why wouldn't they take the politicians out of the process altogether perhaps? Maybe we can come up with a process that ensures an Independent Appointments Commission that actually gets to make appointments and not just recommendations that can be ignored by Cabinet. It doesn't take the politics out of appointments as promised.

I said smoke and mirrors earlier, Madam Speaker, and I really believe that what we're dealing with here is smoke and mirrors. I think this is legislation that now they want to rush through the House, but I think it was probably rushed in its creation as well. I think it's legislation for the sake of fulfilling an election promise. It doesn't do anything to alter who makes appointments at the end of the day. It doesn't do anything to alter who makes the ultimate decisions. It doesn't do anything to alter the level of transparency around those decisions as well.

This is another example of government saying they're going to do something, promising action and then doing something different. That's disappointing. This legislation doesn't have any teeth, which is perhaps our greatest concern with the legislation after having the chance to review it this morning. It's inactive legislation, and maybe that's a reflection on the new administration.

Let's talk for a little bit in the time I have left about how key appointments are usually made. Cabinet has traditionally retained the power to make appointments to key positions. That makes sense because the First Minister, the Premier, and the other Cabinet ministers are collectively responsible for leading the provincial government. They set the direction for policy. They're accountable to the people in this House. They're accountable to the people of the province during election campaigns when government is either elected or not elected, and we know all about that.

Every Cabinet has to ensure that people in leadership roles at agencies, commissions and Crown corporations and so on, people throughout government are not just qualified and they're not just skilled, experienced and proven, but they also have to be trustworthy and they have to work collaboratively with the government. There is good logic for Cabinet playing a role in appointments, as it traditionally has, but don't say that you're taking politics out of appointments and creating an independent process when you have no intention whatsoever of doing so. It's just not true.

SOME HON. MEMBERS: Hear, hear!

MR. KENT: There are roles, though, where you do want antagonists, people who will be truly independent and hold the government up for scrutiny and for criticism. Think about the appointments we make in this House. Again, they're driven by government, but they're formally approved and debated in this House and there's an opportunity for Members of this House to challenge that. While we can't stop government from passing whatever motion it wants, we can certainly challenge and raise questions.

The Auditor General, the Child and Youth Advocate, the Citizens' Representative, soon the seniors' advocate and we would argue there should be a veterans' advocate as well – having people that are truly, truly independent and who shouldn't be looking over their shoulder to see if they're pleasing their political masters in government, that's why those roles exist and are appointed by this House. They do

need to be critical of government, as they often are. That's part of their job.

Let's keep in mind, as we get into this debate, that the Crown corporations and the boards, agencies and commissions we're talking about are entities that do the work of government. They work on behalf of government. They're part of the team that's running the affairs of the province. They do have to work collaboratively with whatever administration is in power. They have to implement the administration's policies and achieve the goals of the administration with good governance and sound management.

So along those lines, Madam Speaker, I'd suggest that obviously it's not in any Cabinet's interest to appoint political friends who aren't qualified to do the job. Cabinet does have a responsibility, as the Minister of Finance eloquently stated in the news conference today. They have to get the work done, they have to do it effectively and they have to shoulder that responsibility. Why would people in Cabinet make decisions and appoint friends who aren't qualified to do the job.

We live in a small place. Sometimes we have friends that may very well be qualified. They may go through a process, win the process and be the best person for the job. But this, Madam Speaker, is not about the best person for the job. This is about a list that will be provided and Cabinet will at the end of the day appoint who it wants.

Again, we shouldn't disqualify people because of some affiliation with a certain administration. I don't think that's what's intended here. That would defy logic. Those people that have been appointed by our government, by previous Liberal governments, recent appointments by the current government – just because they've been what's considered a political appointment doesn't mean they're not capable. It doesn't mean that they're not qualified to do the job. Why would any government appoint people that aren't going to get the work done that needs to be done on behalf of the government. It wouldn't make sense.

We've seen lots of people who have been appointed by our government, and Liberal governments before our time, that did a good job. Their work benefited the people of the province immensely. I think we should show them respect and gratitude for the work they've done serving the people of the province, often in positions of heavy responsibility and often without compensation.

Many of those boards, agencies and commissions that are referenced in this legislation, either on the exclusive tier-one list or the big tier-two list of 130 organizations, many of those people have done that work for free. They've given their time and they've contributed their energy and their talent to do good work on behalf of the province. So whether they're Tory or Liberal or even New Democrats, I would suggest that people are –

SOME HON. MEMBERS: Oh, oh!

MADAM SPEAKER: Order, please!

MR. KENT: I would suggest that those people are doing that work on behalf of whatever government happens to be in office because they want to do good and they want to contribute. It's not about political stripe.

In fact, when I think about some of the appointments that were made by the former administration, there are some really stark reminders, Madam Speaker. All I have to do is look at the front bench of the House of Assembly on the

government side to see some of our PC political appointments.

SOME HON. MEMBERS: Hear, hear!

MR. KENT: I believe the Minister of Finance did a good job working on the board of Nalcor, appointed by the previous Tory administration.

AN HON. MEMBER: Are you saying she was a political appointment?

MR. KENT: I think so.

You have the former Mayor of Grand Falls-Windsor who is now the Minister of Transportation and Works who was, I believe, what would be defined as a political appointment. That doesn't mean, Madam Speaker, that either hon. minister didn't do a good job. They have lots of skills. They have lots of experience. They wouldn't be sitting on the front bench of the House of Assembly on the government side if they weren't qualified and if they didn't have skills, experience and talents that were worth sharing.

It's not about whether they were Tory or whether they're now Liberal – and we have some recovering New Democrats on the front bench as well. It's not about political stripe. Just because a government made the decision to make an appointment, it is not because the Minister of Finance was a loyal Tory or the Minister of Transportation and Works was a loyal Tory. They clearly were not.

We kind of missed that, but I digress, Madam Speaker. I won't force you to rise and call me out of order. I will get back to the matter at hand.

MR. CROCKER: (Inaudible.)

MADAM SPEAKER: Order, please!

MR. KENT: We'll talk about that later, I say to the Minister of Fisheries.

We shouldn't disqualify people just because they were closely tied to an administration. Lots of people have done good work regardless of their political stripe. I appreciate the opportunity to have a little bit of fun during what is a rather serious debate this afternoon.

We weren't afraid to reach across the aisle and find people to serve. In some cases, we thought those people were maybe on our side of the aisle, but, you know, that's politics in Newfoundland and Labrador. There are so many instances of people changing political stripes. It's not always about ideology. We sometimes are very quick to give people a partisan label and it may not even be fair or just.

Maybe people who serve, who are appointed by government, shouldn't be labeled by their stripe at all but by their performance. We shouldn't look down on anybody who steps forward to serve their province within a particular administration. It doesn't matter what political party you belonged to or belong to.

There is nothing shameful about public service, Madam Speaker. We ought to be encouraging it and not finding ways to smear people unfairly, which I have no doubt, based on the heckling I've seen so far this afternoon, that kind of smearing will undoubtedly happen during the debate on Bill 1. We're hearing the catcalls already this afternoon.

Let's keep in mind that it's the new Liberal government that has raised expectations, Madam Speaker. This debate is not about who we appointed in the past or even who previous Liberal administrations appointed in the past. It's not about what we did or what any other administration did; this is the flagship piece of legislation for a new government with a strong mandate.

This debate has to be about what the Liberals have said they would do differently in the platform that they were elected on that was released in the final days of the election campaign. It's the Liberals who have said they'll change the way things are done, and Bill 1, Madam Speaker, does not reflect any kind of real change whatsoever.

SOME HON. MEMBERS: Hear, hear!

MR. KENT: In fact, it justifies political appointments and actually enshrines it in legislation, which is rather bizarre. They did attempt to raise the bar. The onus is therefore on the new government to rise to that challenge. If they fail to do so, then it is just smoke and mirrors and there is no real change.

Their commitment, which was outlined in the election campaign and rehashed in the Throne Speech earlier this week, really wouldn't be worth the paper it's written on if they're not going to do what they said they were going to do. That's not something I would think they'd want to be the case with their very first piece of legislation in this House.

Let's keep in mind, if you refer back to the Liberal platform or to even the Throne Speech this week, this was not a minor commitment. It was about as major a commitment as a commitment could be. It was the very first plank of the platform in the 2015 red book, the very first item in the very first section of the red book. Yes, I did read some of the red book.

Do you know what? There are some reasonable ideas in there, too. It's not all bad. I think you'll sense from our Opposition caucus that we won't be afraid to stand and say when something is good. In fact, it's probably already occurred at least in the media, if not in this House, in recent days.

This is a high priority, the very first piece of legislation, the first bill of the mandate. Traditionally, Bill 1 is the flagship bill that would define them. It's something they should expect their administration to be judged by. So having set the expectations exceptionally high, they can't fault us or fault the media, which we saw yesterday and also today. They can't fault the public for demanding that the bill live up to the expectations they have raised.

I was reading the paper this morning. The headline was: Ball ducks questions. Despite promises of transparency, "Cabinet can ignore 'independent' appointment recommendations."

MR. A. PARSONS: Point of order.

MADAM SPEAKER: Order, please!

MR. A. PARSONS: I just want to point out the Standing Orders say that you must refer to Members by their position, even when quoting, I'm sure.

MADAM SPEAKER: Order, please!

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Speaker.

I apologize, and I thank the Government House Leader for reminding me, even when quoting, that the Member's name should not be referenced.

The Premier ducks questions. Despite promises of transparency, "Cabinet can ignore 'independent' appointment recommendations."

So Members opposite will rise during second reading debate – well, probably not many of them because they want to rush this through, as the Premier has stated – and say that all these things I'm saying aren't true and our concerns are unfounded. But already, before second reading debate even started in the House of Assembly, the headline in today's daily paper is that the Premier won't answer questions and the big concern with this piece of legislation is despite the promises in the red book, despite the promises in the Throne Speech, "Cabinet can ignore 'independent' appointment recommendations."

I encourage you to read the article. I'm not encouraging you to buy *Telegram* James's book, but I am encouraging you to – it is an interesting read. I'm not suggesting you don't either, but I am suggesting that you read his article on page 1 of *The Telegram* today.

This bill, Madam Speaker, is one that the administration should be judged by. They have set expectations very high, and the media, the Opposition and the public should hold them accountable. Let's see if their legislation does indeed rise to the standard that they've set.

So we have the keystone piece of legislation, first session in office. It's a big election promise. Let's look at that in more detail, and without mentioning any premiers' or ministers' names. The 2015 red book commitment reads as follows: Restoring Openness, Transparency and Accountability. "Liberals strongly believe that government must be open, transparent, and accountable. The people of the province deserve to know how and why government decisions are made," which is really ironic considering the process that is proposed here in Bill 1.

They will restore openness, transparency and accountability through the following actions: 1.1 Take Politics Out Of Government Appointments. "Government is responsible for appointing senior positions at Crown corporations, public commissions, and other public agencies. Liberals believe that these positions should be filled based on merit, not politics." Here's the real kicker: "It's simply a matter of making sure the most qualified person gets the job."

Why would you have a process that doesn't ensure that? Why would you have a process that doesn't even recommend the most qualified person for the job?

I'll just go on a little further. "A New Liberal Government will establish an Independent Appointments Commission to take politics out of government appointments." Bill 1 comes nowhere close to achieving that. In fact, it ensures political appointments. It justifies political appointments. It justifies a process that's not independent and it justifies patronage appointments – so very, very concerning.

The implication is clear. The appointments process will be – the idea of suggesting politics be taken out of the process would be that it would be completely oblivious to political associations, blindfolded to political links. Just like the blindfolded statutes in front of some of the top courts around the world. Even the red book commitment, Madam Speaker, ends a little weakly.

If you really want to make sure the most qualified person gets the job, then wouldn't you expect the independence commission to do a lot more than provide a list of people without even suggesting who the most qualified person is? Wouldn't you expect that an Independent Appointments Commission could actually appoint, would actually have the power to appoint somebody to something?

What we're talking about is an Independent Appointments Commission that has no power to appoint anybody to anything. In fact, for 130 boards and agencies and committees and councils they will have no involvement whatsoever. This is about making recommendations. It does nothing to take politics out of appointments.

So wouldn't you expect the commission and the commissioners to have the power to weed out unqualified applicants? Yes, and they probably will do so and then rank remaining applicants. Maybe even actually make the appointment of the most qualified person, but they're not even allowed to identify the most qualified person, Madam Speaker.

The new government, despite making some pretty bold commitments, is not prepared to give up that power. They're not prepared to change how they do business but they are going to put forward this bill for the sake of meeting an election promise that certainly falls short.

They want to have the final say. I respect that, but be honest about it. They want to make sure they have somebody who's qualified but can also work well with them. So I understand why there may be appointments they do not want to give up control over. I think there's actually some merit to that, but don't say you're going to do it if you have no intention of doing it.

Again, as the Minister of Finance touched on in the news conference this morning, Cabinet can't relinquish its responsibilities or abdicate its obligations. Because the commission is not elected, the commission does not have a mandate from the people of the province; the government does, and I respect that.

We didn't relinquish our obligations and our responsibilities, and I wouldn't expect any government to do that. We made appointments and we were prepared to defend them. We defended them in this House. We defended them in the media. We defended them on doorsteps. I would like to think we could go back in time through various administrations and identify good people that were appointed for whatever reason, who were qualified and capable and did good service.

It's the Liberals who said that the old process was wrong and who set new expectations. It's the Liberals who said that there must be an independent, merit-based, politically neutral appointments process. So now they have to deliver on that, Madam Speaker, and they can't have it both ways. Just like you can't be Mr. Speaker and Madam Speaker when you are right there, and you are clearly Madam Speaker, either it is independent or it's not. It's either meaningful or it's not. And if it's not, then what is it but a sham, Madam Speaker.

So there are two separate issues that I want to highlight and I only have a few minutes left, unfortunately, but as the House Leader acknowledged we'll have lots of time in Committee to further discuss this bill. If we want truly independent appointments, then there are two separate issues that I would encourage Members of this House and members of the public to consider. As this debate unfolds, think about how independent the commission gatekeepers

will actually be, and think about how much power those commission appointees, those gatekeepers, will actually have. Will they be truly independent and non-partisan? That first issue is critical.

How will we ensure that the gatekeepers are indeed truly independent, neutral and qualified to make good decisions about the qualifications of candidates for leadership posts in the province? That depends on who will be on the commission. Hopefully, government will choose to recommend some good people to serve in that capacity. But how will they be appointed beyond the rubber-stamping that inevitably occurs here, and how will their independence be assured? I think it's a question that warrants some consideration.

Section 6 in this legislation – and in the couple of minutes I have left, I am not going to delve too deeply into the clauses. We will have lots of opportunity for that, but I do want to point out that section 6 is the authority under which the commission will be established. It outlines how the commission will be established. It says, "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly."

So Cabinet will choose five people. Caucus will be, I would suggest, strongly encouraged to support that motion when it comes forward. There will be a resolution in this House and government, obviously, holds a clear majority. Then government passes the resolution, and the point I am trying to make, Madam Speaker, is that ultimately it is Cabinet that will make those appointments. It may get ratified in this House, but it is Cabinet who will select the five people and bring those names forward to the House. So that is interesting.

How can they say that the commission itself will be non-partisan if Cabinet selects them and uses its majority to hire them but, like parliamentary secretaries, not pay them? If the gatekeepers themselves are political appointees, then how is that process non-partisan? If we are going to move ahead with that – and clearly it's the will and intent of government, and I respect that – why not involve both sides of the House of Assembly in selecting those five people?

Why couldn't we all have a say in who those people are and put forward names? I'm sure the Third Party can identify good, capable, qualified, reputable people to serve. I'm sure we can as well, and I have no doubt that Members opposite will do the same – no doubt at all. Why not look at some kind of process like that, and maybe even refer this bill to a committee of the Legislature to explore that further?

I will run out of time, but another point I want to make today in second reading is that Cabinet can fill vacancies without really consulting with anybody. If a commission vacancy occurs while the House is not in session – and the House is not always in session – there's a clause in this bill that says, "Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council may appoint a person to act in his or her place," and that will be confirmed by a resolution of the House of Assembly once the House next sits.

The House can go for several months without sitting, of course, so Cabinet can appoint somebody as long as when we get back together in the Legislature a motion is then passed. It's worth highlighting that even the five-member commission is not, in any stretch, non-political or free from political involvement given it is Cabinet making the appointments.

For those appointments, though, let's assume we get the right people, they're appointed for the right reasons and they do a good job. If we don't like a Cabinet appointment we can question Cabinet ministers – anybody can. From now on, Cabinet will simply say, well, the commission recommended the person. Do you know what the Premier said repeatedly today? If they don't like it, if they don't like exceptions we make or decisions we make as a Cabinet, those five members can resign. If a member has a concern, they can resign.

Madam Speaker, there's lots of concerns to consider. I'm down to my final few seconds. Does this bill meet the test of the promise in the 2015 red book? Does it take the politics out of appointments? Of course it doesn't. Does it make sure that the most qualified person gets the job? Absolutely not. It makes sure of nothing. It doesn't take the politics out of anything. It changes nothing. That's where this bill fails.

It's not good enough for this administration to simply be no different from any other government in our history, regardless of political stripe. They raised expectations in the red book. They said that they would do things differently and they brought in this legislation. This initiative falls short –

MADAM SPEAKER: Order, please!

MR. KENT: – and won't result in any meaningful change, Madam Speaker.

MADAM SPEAKER: Order, please!

I remind the Member his time has expired.

MR. KENT: Thank you for the opportunity to participate in second reading debate.

SOME HON. MEMBERS: Hear, hear!

MADAM SPEAKER: Order, please!

The Member for St. John's East – Quidi Vidi.

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

I'm delighted to have the opportunity today to speak to Bill 1, a bill that we've heard the Premier speak to and the Member for Mount Pearl North from the Official Opposition. It's a very interesting bill that we have here in front of us.

The Liberal government has been promising this for a long time. It was part of their platform in the general election where they said that they were going to create a commission to take politics out of government appointments. I hope the government side is not going to get sick and tired of hearing it, but we have to talk about this promise that they made, this bill – this bill – this bull, that is a good one – that they put on the table for us to look at. They're probably going to get sick and tired of hearing is the politics really being taken out of government appointments.

They're the ones who started that. They're the ones who started with their commitment in their platform. And they repeated it again in the Speech from the Throne which said that this commission will be the first of its kind in Newfoundland and Labrador – note, at least the Speech from the Throne had it correct. It might be the first of its kind in Newfoundland and Labrador, but dealing with taking politics out of appointments is not new in the country. I have to point that out.

The Speech from the Throne said: "This commission will be the first of its kind in Newfoundland and Labrador, taking the politics out of government appointments. We believe that appointments to our agencies, boards and commissions should be merit based, not politically motivated, as in the past."

We firmly stand behind being merit based. One would want to think that the people who are being appointed to our boards and to our agencies and to our public bodies are people who have the experience and skills that are needed. Now, do we need a whole commission put in place to make that happen? I find it very interesting that when we look around the country we see some very good examples of governments, of provinces – not governments in the terms of a particular colour government, but provinces also wanting to have a process that takes the politics out, a process that appoints on merit.

Ontario has what they call their Public Appointments Secretariat. It's not a separate body; it's within the government structure, but recognizing that they wanted a merit-based appointment system with nominations made to the government. British Columbia has what they call the Board Resourcing and Development Office and they have the same concern. They, too, are a body that establishes guidelines for all provincial appointments to agencies. They ensure all provincial appointments are made on the basis of merit following an open, transparent and consistent appointment process. That's what they've done in Ontario and BC. They've set up bodies within government that makes sure appointments are merit based and makes sure that it's an open, transparent process.

I think this government has put itself into a real conundrum. They're not going to say that, Mr. Speaker. They're not going to admit that. One of the realities is that, ultimately, it is government's responsibility to do the final appointing – ultimately, it is. Ultimately, the Lieutenant Governor in Council and the ministers have to make final appointments. That's part of their responsibility. That's what they're elected for.

What the people of the province want, and certainly what we want as a party is an open and transparent process that also recognizes government's responsibility. How do we do that? That is what's been lacking in the past in this province, is an open and transparent process.

I'm going to start where my colleague for Mount Pearl North left off. He and I don't agree often on a lot of stuff, but we agree on this one, and that is the starting point for the whole process is the actual commission itself. That's the starting point. What is this government doing? What does the bill say? The bill says a motion will be brought into the House and we will get to approve the five people who are on the IAC.

The Premier stood today and said the same thing. He pointed that out as that was going to be the process of consultation. We would have the opportunity to speak to the five people who were going to be appointed by government, by the Lieutenant Governor in Council here in this House.

Well, where we agree, not with the government but with what the Member for Mount Pearl North said – and I totally agree, it was in my notes and I'm bringing it forward – is that you, the government, should be asking all of us in this House to name people as the possible people to be on that commission.

AN HON. MEMBER: We are.

MS. MICHAEL: No, you're not doing that I point out, Mr. Speaker. They are not doing that.

What they're doing is they're going to be bringing five names in here and saying, okay, approve them. They're the majority. No matter what we say or do they're the majority.

The Premier said that he would not – for example, when it comes to nominees who are brought forward to the Cabinet – want to make those names public because he wouldn't want to embarrass people if they didn't get chosen. However, what they are going to do is decide on five people who are going to be on that IAC, bring those names in here and then say to us, okay, if you want to tear them apart, tear them apart.

They're going to ask us here publicly in this House to have an open discussion about the five names that are brought forward. That's a discussion that should happen prior. That's the discussion that should happen where we can really sit down together, as people with responsibility, and put the IAC together, the appointments commission together.

What happens here in the House – and we all know that and the public knows it as well. When names like that get brought to the House we are rubber stamping at that point. We're not going to be saying, why did Ms. J. B. of those five – why do you have her? Why are you bringing her into the House? Why do you think she is a good person? We're not going to do that here in this House. That's not the kind of thing you do.

So the actual appointment of the IAC is in their hands. It will come in here and we'll rubber stamp it. That's what is going to happen. The public knows that's what is going to happen and they know that's what is going to happen. There is the first flaw. The first flaw is they ultimately name the IAC.

If they really wanted an open process, tell us. Tell us during this debate that they are going to ask the two Opposition Parties to nominate people, along with people they nominate, and we'll look at all of them together. Then, we will get a variety of people, maybe, of political stripes. I think the big important thing will be a variety of people with their experience.

One of the things, for example, that is noted in the Ontario secretariat in their guidelines – it is one of the principles governing the Ontario Public Appointments Secretariat: "Persons selected to serve must reflect the true face of Ontario in terms of diversity and regional representation." When I asked this morning in our technical briefing what was going to happen inside the PSC with regard to gender diversity – I took one piece of diversity, gender diversity, in putting the list together for government – the answer was it's merit based. That was the only thing. We will be giving names forward –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Osborne): Order, please!

MS. MICHAEL: Thank you, Mr. Speaker.

The answer during the technical briefing was it will be merit based. That's the only thing that the PSC will be using is merit based. There is nothing in here that talks about the people who get appointed reflecting, in terms of diversity on regional representation, the true face of Newfoundland and Labrador.

So we are dealing with something very complicated because government has a responsibility, with regard to diversity, in

the appointments that it does. It's not nice and clean in saying PSC passes us a list of names. What if the Public Service Commission passes the government a list of names that is just five of one gender, five men, no Aboriginal people, all from the Burin Peninsula? What if that happens? Government has a responsibility.

What they've put in place is not going to help the process at all of what we need here in this province. Yes, government has to do appointments and we need an open and transparent process. I don't think that a government-appointed five-person commission is going to give us an open and transparent process. That's the basic flaw. The very first thing is the basic flaw with this bill.

I put that out to government. I have to ask, how much real thinking through did this government do when they came up with this idea of the commission? What real thinking did they put into that? Right now, they started saying they want something that was not politically motivated, that politics are being taken out. They put in place something that ultimately has to say – it has to have the notwithstanding clause because ultimately it is government's responsibility to appoint. Then they have the five- person commission that they will appoint and bring to us for rubber stamping. So they haven't taken the politics out. They have not done that.

This seems to be a habit of theirs right now, the flip-flopping that they've been doing and continue to do. For example, we had heard all during the general election that there were going to be no job cuts. They had not only their leader saying it, not only was it being said by him, they had key people who were running for them out saying it as well. It was one of the things they got elected on, I am positive. Yet what's the first thing they're flip-flopping on once we're here and we're finally all three elected and we're back working again? It's on the table. Everything is on the table. Job cuts are on the table.

Why? Because they knew, I think what they were thinking – and if they didn't know what they were thinking, that's even worse. So it flip-flopped, the same way with the HST. No, the HST is not going up. Now that's on the table, too. Why is that on the table, too? Because they didn't think; all they were doing was making political promises and not thinking the political promises through.

Now here they are with a bill that everybody is going to recognize. I, too, invite the general public to go into the government website and into the House of Assembly inside of that website and find the bill and read it. They, too, will see that they aren't keeping the promise they talked about, the promise of taking politics out of appointments. If they really meant it, if they want this process, the process of having the commission – and I don't think they need that process. I think it's an extra level of work.

All of this goes on anyway. The Public Service Commission does the job of keeping the lists of people and people who are qualified, and people with merit, et cetera. It could be broadened. What they do could be broadened.

Already, government takes nominations and government appoints. What happens right now, especially with the things where government does not relate to the Public Service Commission is all private, we have no idea. Nobody knows what openings there are. Nobody knows how they can apply for openings. Nobody knows how they can nominate people.

An open and transparent process, as they have in Ontario and BC, could be put in place without having this commission. This commission really is smoke and mirrors, I

agree. That's the only thing I can use for it as well is smoke and mirrors, trying to make people think that something different is happening. Nothing different is happening, Mr. Speaker.

If they really meant it – and I'm going to repeat it – they would have all three parties together. I'm trying to remember which place in particular where they say that. They talk about it. It might be in the Speech from the Throne; I don't want to say exactly where. This government has talked about the all-party committee structure. It has said that they would use the all-party committee structure to talk about legislation.

If there's a piece of legislation where an all-party committee should be talking about the legislation, it's this piece of legislation. An all-party committee is not happening here on the floor of the House. An all-party committee meets outside of the legislative structure. It sits down and works through the legislation.

That is where we should be doing the work. It's in an all-party committee structure that names should be coming forward, that ideas should be being put out on the table. Then we might see the politics being taken out of the structure. Because if the names were coming and there was mutual agreement happening on a committee level with regard to the people who were going to be on the commission, then I'd say the politics were being taken out of it. It's not being taken out of it now.

It's still ultimately – we have the open process with the Public Service Commission. They will make sure the availability of positions is put out publicly. They will make people know in an open way they can make an application and they can put their names in. From then on, there really is nothing open about it. From then on there isn't, and it's all in government's hands.

We have to recognize that this government needs to call this what it is. It is another new structure which is outside of the government system. But being outside of the government system, the commission itself, doesn't mean it's non-political, because it is still political.

Government being responsible for making appointments does not have to be partisan. You see, that's the word that's not being used. We're saying taking politics out. It's taking partisanship out. It's taking out making decisions and finding people based on what is the political colour of that person. Is that somebody who we need to pay back for the work they did for us in the campaign? That's the kind of thing that has happened here in this province, and that's what we want to end. We all know that; that's been part of our history, way too much. We don't need to name examples, and I won't, but we all know them. And that's what we want to get away from. We want to get away from the partisanship.

Can you get away from government maintaining its responsibility? No, you can't. Government has to maintain its responsibility. You will always find a notwithstanding clause in legislation. You will always find a notwithstanding clause even in the contract, because ultimately there are things that have to happen and ultimately it is government's responsibility. That's why we are elected; that's why we have a party that forms the governance of the Assembly. It's the responsibility to make good decisions, but the good decisions need to be made, all the parties together – and when those five names come in here, that's not the point at which we can really discuss who should be on that commission. That's the point at which you say: Okay, well, that's who it is.

We're not going to sit here, when those five names come in, and drag those names through the mud. If I know somebody of those five names – my gosh, I can't believe that person is being appointed. I'm not going to say that here publicly here in the House. Of course I'm not. My colleagues across the way are looking at me and some of them are almost nodding because they know we can't do that. All we can do when those names come in here to the House is approve them.

We have to learn what consultation means. We have in a number of appointments right now that have been made by government – it says government is supposed to consult. Well, I remember one time quarter to 11 on a Sunday evening, getting a call from an executive assistant saying the premier wants me to call you to tell you that tomorrow we're naming so and so for this position. That was the consultation – quarter to 11 on a Sunday evening.

AN HON. MEMBER: Who did that?

MS. MICHAEL: Well, I don't think the Liberals were in government since I came in.

SOME HON. MEMBERS: Oh, oh!

MS. MICHAEL: However, I do not put it past them. You're doing the same thing.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MS. MICHAEL: In this bill there is no word even about consulting with regard to those five people. That's the point I wanted to get to. It doesn't even say that the government will consult with the rest of the MHAs in the House. It will not consult with the Opposition with regard to naming the five people. So that's why I know it's even worse. I won't even get a phone call quarter to 12 or quarter to 11 on a Sunday evening, because you're not even saying that you have to consult.

Mr. Speaker, it isn't taking the politics out. It isn't doing what they've promised. I really think this bill is a sham.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

SOME HON. MEMBERS: Hear, hear!

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

It's certainly an honour to be able to stand in my place in this House of Assembly to speak to issues that are important to the people of this province. Whether it's legislation, whether it's pressing issues, these are the things that we're put here to do. So it's certainly an honour to stand here in this House and speak to this.

It's an even bigger honour to be able to stand here and speak to Bill 1 for this new government. Bill 1, an Independent Appointments Commission, something that we talked about when we were in Opposition, we put it in our election platform, and right now we have it here on the floor of the House of Assembly being debated by all parties. That shows you that again it was a promise that was made and right now it's a promise that's being kept. Bill 1, the flagship piece of legislation, is being put forward.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: I appreciate the commentary from the Members opposite. Again, I know quite well what it's like to stand up on the other side and speak to legislation and to hold government accountable for legislation. I appreciate and respect the comments that they make to this. That is their job.

Do you know what? I can remember Members in government saying, oh, you're in Opposition and you have to disagree just for the sake of disagreeing, and Opposition is an easy job. I will say to you, you'll never hear that from me, because I worked extremely hard in Opposition. I worked extremely hard.

I'm sure that Members opposite who were on this side and are on this side will learn that it is an extremely hard job if you want to do a very good job of ensuring that government is accountable to the people of this province, which is the job of the Opposition. Whether you're a Member of Her Majesty's Loyal Opposition or you're a Member of the NDP, it doesn't matter, your job is to hold government accountable, and we welcome that.

Now, I'm going to speak to Bill 1, the Independent Appointments Commission. Tuesday was our first day in the House, with a Throne Speech for a new government. We announced it that day that this was Bill 1. Yesterday the bill was put out there for people to see, to debate, to discuss. Today there was a briefing on it, there was a press conference on it, and we're here debating it.

The good news is this is just the first day of it, the first day of this debate. I'm sure there will be plenty more, as there should be on any piece of important legislation. There should be as much debate as people need to ensure that they get their points across, and I welcome that.

Contrary to what the Member for Mount Pearl North said – he said government is trying to rush this through – I can say, Mr. Speaker, with all certainty, we're not going to be trying to rush this through like some of the pieces of legislation that that government rushed through right here in this House.

I remember one that they invoked closure on, but again I'm going to follow the Standing Orders, Mr. Speaker, and I'm going to be relevant. I'm going to speak to this bill which is here. We have all the time in the world.

I think the Member opposite misconstrued what our Premier said when he said we want to get this done. We want to get it done quickly. The reason is, as the Premier stated, there are hundreds of positions on these various boards, tier one, tier two, you name it, they're open. They have not been filled. Many of these groups are calling and writing and saying please fill this position, which has been vacant for months and years, so we can do our job.

That's what they're doing. They're calling us. I've had those letters myself in my department for the various boards that fall under the mandate of the Department of Justice. They're saying this has been vacant, I wrote the minister before you, and the minister before that, and the minister before that and they're not filled. Please fill it so we can do our job. That's what we want to do.

We realize that you can't rush it; you have to debate it. This is just the first part. We're debating the legislation. For the benefit of those that may not have sat through this, second reading is where you get to talk about the bill, maybe, more

generally. We'll go into Committee and that's when we'll get into, hopefully, the questions, suggestions and the points.

I can tell you, I'm certainly open to listening to what Members opposite have to suggest. Obviously we're going to listen to hear what they have to say if it has some merit, which again is the whole point of this commission: to have merit. If there's merit to the suggestions, then we will listen.

That being said, just because they say something doesn't mean that we are going to listen if it has no merit. The other thing is that our mandate is to govern. That's going to be brought up again now shortly when I go back to some of the points that have been made by Members on the other side.

An Independent Appointments Commission – one would say, what does it do? What we're trying to do is we're trying to put a process in place where there has never been one before. I guess you could say it has different tiers depending on it.

There is a Public Service Commission. It exists right now; it is there. What is going to happen is that people that want – actually I'm getting ahead of myself. I'm going to go back to the IAC. It's going to be a five-member Independent Appointments Commission. Those names will be brought forward by us as a government. Do you know what? If there were names to be suggested, I'd say suggest them. Put them out there. What harm is there in suggesting it?

At the end of the day you have to start somewhere and this government will select those names. I'm pretty sure, I'm willing to bet that the people that come forward to do this extremely important task are going to be qualified, they're going to be experienced, and they're going to be leaders. Their job is to ensure that the right people are getting in the right positions because at the end of the day, the jobs that we're filling handle taxpayer money and responsibility. That is what we're trying to protect, to make sure we have the right people in the right jobs.

It's a case of having the right people not knowing the right people. We've had some of that in the past. Do you know what? I'm just going to say in the past we've seen that. I don't need to get into the places where that's happened right yet.

We have this IAC. That resolution when these names come forward, this is not just names that are forced on this; that is going to be in a resolution that is brought here to the House and debated. If Members on the other side have an issue with those individuals, they'll have a chance to put that out there and debate it. Tell us why these individuals are or are not qualified to hold this. Tell us why they should not be there.

Again, we will have the full debate. That is what we have to have, but we want to get that done. Don't get me wrong; we want to get that done to get this moving because the taxpayers' money is at risk here and some of these positions need governance. Some of these boards need governance and they need people there now.

I am going to say there are some that obviously have more at stake than others. There are some that are very high in terms of expense, in terms of responsibility and the mandate that they handle, and there are some on the lower end. Again, it is interesting to note the people who come forward to do this will be volunteers; they are just going to be remunerated for the expenses they incur in doing the job. This is not even a paid position. These people will do this out of a sense of duty to this province. The same reason I would

note that everybody here – the reason we are here is because we all feel that sense to serve.

Again, going forward, it is a three-year term and any further members of the IAC will go through this same independent process. They are going to go through that, but you have to start somewhere. Once the IAC is in place what is going to happen is that individuals who are interested in one of the various positions, which are going to be posted – they are going to be put out there so that the public can express interest in this. It is going to go through the Public Service Commission, a non-partisan organization.

Again, I'm not going to say anything bad about it. I know there are some comments on the other side that indicated – I am not going to say on the other side because that implies both sides; I am going to say from the previous Member of the Official Opposition who spoke, he seemed to indicate he wasn't sure if he could trust them. Now, he will get an opportunity to say whether that is true or not, but I have trust in the Public Service Commission to ensure that the right people are getting in the right spot. I have that faith.

They are going to suggest names to the IAC. So that is one independent process there that never existed before, and now it is going to go to this five-person, non-partisan commission that never existed, for consideration. I can't tell you what their process will entail. I am sure they'll put it through any similar process that one goes through to get a job. There could be an interview, there are resumes, there are probably references and there is a whole number of things, probably, depending on the position. They are going to suggest three individuals. Three individuals will be suggested.

Here lies one of the points, I guess, that the other side is having some issue with: Well, why is that going to Cabinet? Some Members on the other side have said – and the Premier spoke about this. At the beginning it was, you're there to govern, so govern. Now when we're going to govern they're saying, hang on a second, don't do that. You can't have it both ways. At the end of the day, the law states that it's Cabinet's duty. We cannot abrogate our duty to make decisions for the best interests of this province. I'm not prepared to do that.

It's going to come to Cabinet and Cabinet will make a decision of the three people that went through a two-tier process of independent people. I would point out for the record it's never existed before in this province ever – ever. Anybody before that went in certain positions here; I don't know how they were appointed. I never saw any process that they went through. Usually, they just showed up. Certain positions, the way that they got in you might be able to question them.

There are lots of names that have been suggested and we'll bring those up at some point. I want to talk about what we're trying to get done here. It comes to Cabinet and Cabinet is going to make that decision because it's Cabinet prerogative, it's Cabinet's job and it's Cabinet's duty to pick the individual. All of this is going to be posted online. This individual will be posted online as well.

Mr. Speaker, I don't know, I'm not quite sure – I know that, especially the Member for Mount Pearl North, he used words –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

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

I know Members opposite, especially the Member for Mount Pearl North – he said he has a lot of concerns about this. I'm willing to bet –

SOME HON. MEMBERS: Oh, oh!

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

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

I'm glad to see the other side is interested in what I have to say here.

They're expressing their concern. That's their job, is to question legislation. Do you know what? At the end of the day I think they're going to support this because it's drastically improved over the process you had, which was nothing. You had nothing.

That being said, the Member opposite is going to get plenty of opportunity – and I will certainly listen. He's going to get opportunity to make suggestions on how to improve the process. By all means, I suggest you do it. That being said, the question will be asked back, why didn't you do that when you were there? Why didn't you do it?

I ask the Member for Fortune Bay – Cape La Hune: What did you do? If you have suggestions you'll get plenty of opportunity to make them. You've got plenty of opportunity, and I promise I won't interrupt you while you speak. I promise I won't interrupt the Member for Fortune Bay – Cape La Hune when she has a turn to speak to this and offer her constructive suggestions as to how to improve this groundbreaking legislation this government promised and is now delivering.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: She's going to have her say on this at some point.

The other thing I would like to know – and I think this is important, and it's something that's been discussed in this House of Assembly. One thing that's going to be applied during this entire independent process, and I think it's necessary, is a gender lens to ensure we're getting both women and men, capable women and men qualified to be examined for these positions. That's what we need. I don't think anybody is going to disagree with having that sort of lens apply here.

We've talked about it here in the House of Assembly, how we need more females in this House of Assembly, and I think everybody agrees. Well, I think we also need more women to be going through this process, and they are going to be given every opportunity. That's part of this two-tier process of Independent Appointments Commission. That's there, and I don't think I'll get any disagreement from the other side on that.

My time is starting to run out here. I have to suggest that – and I have to commend our Premier. Our Premier, back when he was on the other side, spoke about this. He questioned this when he was in Opposition and said, look – and again, do you know what? We've got some people in these positions. It's not the appointment process; it's the ability to do their job. Many of these people are good people. They are qualified people. This is not saying they're not qualified or they shouldn't be there. This is questioning the process.

The Premier said on the campaign trail he heard this. I can back that up because I heard it. People question, how do certain people get these positions? Are they qualified? I have to tell you, we've seen it in the past with one particular organization where their chairperson used to take vacation time to go run a political campaign, and after the campaign he would come back to that publicly appointed position. That didn't just happen once; that happened twice. So please explain to me how that is an appropriate process. Please explain to me.

I would suggest, and I invite questions as to this. That's the whole point of this. As the minister said, this is our flagship legislation. This is our Bill 1 – it is. I will recall that the flagship legislation in the last session, Bill 1 for the other side, died on the Order Paper.

AN HON. MEMBER: What was it?

MR. A. PARSONS: Public procurement. It died on the Order Paper.

MR. JOYCE: The Leader of the Opposition was the minister.

MR. A. PARSONS: Yes.

This piece of legislation is important to us. We're going to ensure that it happens because it's in the best interests of the people of this province. Do you know what? I know people on the other side are going to question it, as they should. There's going to be plenty of opportunity, as we go through this legislative process, to deal with this.

I don't think there's any need to refer to prior practice because I explained that the prior practice was just ad hoc. Who's there? Who do we need to put in the position? That's not how it works. That's not how it should work. I know there are people out there in these positions now. I've talked to them and they say this is the right thing. This is the right thing to do. They recognize that. They want this. I think this is a good thing.

I know the minister opposite or Member opposite, sorry, was questioning – former minister.

MR. KENT: Thank you for the painful reminder.

MR. A. PARSONS: Not intentional there, sorry.

The Member opposite pointed out that it's non-binding. Well, at the end of the day Cabinet has to provide the direction to go. We cannot abrogate our responsibility. The funny thing is if that did happen, I can guarantee the other side would say they don't want to make decisions. I know that would happen because they've done it already, say they don't want to make decisions. Well, you know, we are making a decision here.

When you question the process – when it's all said and done, when we see how this transpires, when we see how it gets debated, when we see the individuals that make up the IAC, when we see the process that leads to qualified individuals going into this, I am confident, Mr. Speaker, that at the end of the day people are going to say it was the right thing to do. I am confident of that, Mr. Speaker.

Given the fact that my time is running out, I think I've made my point. I will have an opportunity during Committee stage to stand and respond to questions during the back and forth and certainly answer questions from Members opposite when they have them. I look forward to that as we continue through this process.

At this time, I would move that the debate on Bill 1 now be adjourned.

MR. SPEAKER: The motion is that the debate be adjourned.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Carried.

On motion, debate adjourned.

Second Reading debate concluded on March 21, 2016¹⁴

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

MR. A. PARSONS: Yes, Mr. Speaker, I refer to the Order Paper. I call for second reading, Bill 1.

MR. SPEAKER: It has been moved and seconded that Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, be now read a second time.

The hon. the Member for Conception Bay East – Bell Island.

MR. BRAZIL: Thank you, Mr. Speaker.

It is indeed an honour to stand in this House and speak to Bill 1, An Act to Establish an Independent Appointments Commissions and to Require a Merit-Based Process for Various Appointments. A great lead-in to what I would have hoped would have been a great bill. It's very encompassing. It has a lot of components to it, Mr. Speaker, and gave a lot of us some hope and acknowledgement that there was a need.

There's no false expectation here. There was a need to improve the process we use in this province to appoint people to various boards and commissions in this province, Mr. Speaker. Nobody disagrees with that. That wasn't our disagreement.

Mr. Speaker, I look at this bill as the trilogy of the Liberal administration on its first bill. I say that because as you know how trilogies work, they're all about, the first one is to grab you, to give you a concept of exactly what this bill would all be about. The trilogy there was about the red book.

In the red book they had me too. They had me convinced this was going to be a good piece of legislation. It could be something that I could look at and support, that I would think would be in the best interests of the people of this province, Mr. Speaker. I was sold. I was intrigued. When the Liberals formed the government I was saying, now, show me the next phase.

The second part of their trilogy was the Throne Speech, Mr. Speaker. In their Throne Speech, they came around with they were going to be open. They were going to look at a transparent and open government. That was fine and that was part of it. We respect that. As a matter of fact, we're an administration that started that process.

My hon. Member here for Mount Pearl North was the minister responsible for open and engaging government. Mr. Speaker, we want to do it, so if the Liberal administration is going to take it and add to it, we welcome that, support it, would even publicly applaud it; and still will, if they go on the right path and put in place exactly what they stood for and what they say is in the best interests of the people of this province. I have no qualms in supporting that.

There's no doubt we'll have some amendments here. We'll have some open debate. I'm looking forward to that. I'm hoping at the end of it we come to a consensus that works for the people of this province. Indeed, if that's the case I will have no qualms in standing with all my colleagues in this House of Assembly and supporting this bill.

Right now as the bill stands, I've got some challenges. I know my colleagues have some challenges around what needs to be put in place. So we'll have that debate. Maybe I'm misinterpreting what's here. I look forward to the rebuttal that we'll have from the government side and the open debate. Maybe there's clarification. Maybe it's lost in the interpretation, and that's fine.

Mr. Speaker, the third part of the trilogy is the actual act itself. The act itself talks about an open, transparent and administrative system that is arm's-length from government. I have some real challenges in being able to believe that. Again, you had me at the first stage. I was engaged. I'm thinking you've got a good story here; I want to watch it. I can't wait to see the second version of it.

The second version came with the Throne Speech, all about transparency and openness. Done again, I'm in. Take me to where you want to go with that. I'll support it, but I saw no evidence of what was going to happen there, Mr. Speaker.

We got to the bill itself. I got to look at the meat of the bill and got very disappointed about how many entities are not included in this process, Mr. Speaker. How many agencies there – particularly those that have a number of appointees – would still have total control given to the minister of that line department. The Public Service Commission would just be an entity who would just take resumes and lay them in particular piles to say, yes, you have the minimum qualifications.

Now the minister can take them and he or she can still decide who they want to put on those particular boards. Not that they are necessarily the best individual, or the most qualified or the most experienced. It's all part and parcel of that process, Mr. Speaker.

I had some concerns around that. I had some concerns around the first stage of openness and the commission itself, how the commission itself was going to be appointed, Mr. Speaker. There are a lot of challenges around that. If you really want to say you're open and transparent and you want to take the politics out of government, have an open process where people can apply to be these commissioners and look at their backgrounds. It makes no difference if they're political partisans, have that open. Do it. If you want to really be a groundbreaking administration, there's an opportunity to do that.

AN HON. MEMBER: You could handle the file.

¹⁴ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-03-21.htm>

MR. BRAZIL: Very much so.

So why not have that opportunity. We'd encourage that. We think it would be in the best interest of the people of this province. No doubt, the people in this province would respect it and take that to the next level. So that's what we're looking at. That's one of the concerns that I have.

MR. HUTCHINGS: I can't hear, Mr. Speaker.

MR. SPEAKER: Order, please!

There are a number of private conversations going on in the Chamber. I'm having some difficulty hearing the Member that's recognized.

I welcome Members to conduct their business, but if you're going to do so at a volume that disrupts debate, I ask you to take your conversations outside.

The hon. the Member for Conception Bay East – Bell Island.

MR. BRAZIL: Thank you, Mr. Speaker.

I want to continue going through the piece of legislation that's being put forward, Mr. Speaker. Again, it's a great concept. I won't argue that – and the Member noting that it's a great bill. It's a great concept. I don't argue that. As a matter of fact, it can become a great bill.

I'm looking forward to the amendments we'll put forward and the debate, and hopefully a decision and a consensus that this will become a historic bill for the people of this province. I'm looking forward to that. I'm looking forward to that debate. I know the Members opposite would be open to having that debate. If we bring in a concept they think makes sense and enhances the bill, it doesn't take away from the particulars of what the intent was but enhances it, they would support that. I'm looking forward to that, Mr. Speaker.

We want to talk about the real gist. The people need to know exactly what is written right now in this bill. That it doesn't go far enough to really promote what Bill 1 and what its whole intent as we understood it and what we would support gets to that level. That's particularly around having entities taking the politics out of either having qualified members of the civil service doing a full assessment and making recommendations based on a principle of the type of skill set that's needed and the position they're going to be engaged in, and having it open to every individual in this province who has that particular skill set, not a particular partisan.

All the entities, regardless if it's the higher remunerated ones or if it's the lower remunerated ones, it's about putting the people who are best qualified. It's about what the bill's intent was, from my understanding, is giving the people of this province an opportunity to be part and parcel of a non-political, non-partisan process.

Bill 1, a great opportunity to be a very important bill and probably one of your milestones as an administration, but to make that and to have it stand and have people buy into that, you have to make sure you cover all your bases. We're suggesting some of the things relevant to that.

Some of those things we're going to be talking about are that all entities would be included in the process that takes politics out of it. That we open it up to all residents of this province who could fulfill the needs of the people in this province by offering their skill set, by putting that forward and eliminating some of the challenges we have there and not having the secrecy, because there's still a full momentum here of

secrecy. It's all still held to the fact that Cabinet gets to decide.

In a lot of cases line department ministers get to decide on particular boards, but then when we get to a different level, a different tier, the Cabinet has. Cabinet doesn't even acknowledge who the nominees are and exactly what their skill set would be. We will never know who was put forward.

We applaud the fact that there will be a process put in place. That there's a level there of the bureaucracy, very talented, very competent people that we have in our bureaucracy here in different entities, particularly around the Public Service Commission who could assess the skill sets that are needed and could find a way to make sure there's an attachment to a particular need with a particular skill, regardless of the geographics. Maybe you assess part of the evaluation on your geographic needs. That would be fine. Leave that to the bureaucrats who on a daily basis do very diligent work in identifying exactly what the needs of the people are in this province and running our programs and our services.

Don't forget, the members on these boards are the people who are going to help guide the billions of dollars that we spend to ensure people have services in this province. To do that, would you not want to have the best skill set? Would you not want to ensure that the people who got there didn't get there because of their political connection or the donation they made to a political party or their friendship or any of this? This would solely be about an individual skill set being attached and connected to a particular need that we would have in this province to address a particular set of programs or services or issues. It makes sense. It's easy to sell. It's easy to put in place, but not as it stands under the process of Bill 1 right now, Mr. Speaker.

It can't be sold to the people. It's definitely not sold to our party, but we're open. We're very open to being engaged, to co-operate, to have an open dialogue and hopefully come up to a consensus that's workable and liveable by everybody here so at the end of the day, two years down the road, this is your signature bill. Twenty years down the road people will look back at it and say this bill took the politics out of appointments. It ensured that the best people got to do the best job for the people in this province. The money that we invested, you knew you were going to get your best return on it. Mr. Speaker, that's the simple process that we want to have that discussion around.

I want to also talk about some of the more important things as we get into what this bill would be about, the definition of which one of these entities doesn't fall in a particular tier and that. There's some question around that, which ones are of higher need, based on what principle, based on what policy. There needs to be an open discussion around that. There needs to be an outside agency to come in and look at that, be it our own in-house civil servants, be it another agency that has that skill set, to identify which ones should be where.

If you're going to live by that, justify it. I only ask for justification. Justify why certain entities fall in one tier and can be willy-nilly decided by the minister, while other entities have to go through a different process. Fair enough. I say maybe there are rational reasons for that. Fair enough. If it's because of the costing to do that, if it's because of the amount of work they have to do, if it's because it's not a full-fledged position, if it's because geographically they're regional boards, fair enough. Explain all that. Outline all that. Give us the definition.

Give us how you sat down and flushed this out and really looked at how this would benefit the people of Newfoundland and Labrador. Do that. Sell that. Sell that to me. You'll get my vote. No doubt I think my colleagues are open minded enough to do the same. That's what we asked.

We do ask when we get up in debate – and you've obviously got the minister responsible here who will have a very vast knowledge of how they got to this point. It's a very encompassing bill, one of the largest ones I've seen, a lot of information being shared. That's appreciated. Obviously, it gives us as much information about what we need to debate, but it also gives us some clarification in certain areas.

There are a couple of vague, grey areas here, so let's get up and explain those. Tell us what your rationale was behind the categories in different areas. Tell us the rationale behind why the Public Service Commission could allocate its stacks of resumes based on who they think are qualified, and send them up to a minister who, in turn, still could just pick whoever. It may be a friend. It may be an acquaintance. It may be a supporter. It may be a neighbour. It may be the most legitimate person there, and I would hope that would be the decision. But we can eliminate the expectation that there might be a reason other than the best individual getting selected. Let's take that out of it. That's the intent of the bill. Make it non-partisan, non-political. The cliché, take the politics out – let's do that.

There's a way of doing that, by having that open dialogue, having another review of exactly why these entities were put in place. If there's a rational reason, please share it; I'm game. I'm open-minded enough to say, yeah, okay, that makes sense. It is better we save and still protect the people of the province here – while I may not like it, there are certain things you're going to vote for because at the end of the day you think it's the better return for the people of the province. We'll have that dialogue.

When we get to a point where you're saying and your testament is this will take politics out of appointments, and then the first thing you say, oh, no, no, all these entities, close to 100 entities, are exempt from them. We're just going to ask the public service to put out a call; everybody sends in a resume. They'll send up a list of – I'm assuming – everybody who's qualified, which could be everybody and their dog in a lot of cases, depending on what the position is, and the minister still gets to decide who he or she likes for whatever reason.

You would think and hope that it be based on the most qualified people – and that might end up being the end result, and I would hope it would be. But the general public won't see it that way, and you'll always be scrutinized. So you can take that scrutiny away right away by having an open process. Your first part of that process is putting all entities under one umbrella and then finding a commission or a structure that takes pure politics out of it.

You guys appointing those people at the beginning still doesn't take politics out of the appointments because you're first going to be labelled as the people you put there to design the process and put forward, particularly the larger entities, the tier-one entities, are going to be people who are connected to your party, who have a politically vested interest. That defeats the intent of the bill.

So we're asking – and we're being sincere here, we'd like for this process to be improved. I agree with it. I think it should have been done years ago. I have no qualms in saying that, without a doubt, none whatsoever. What we're saying is you've got an opportunity to do the right thing, but do it so it

lasts for the next generation and then beyond by having another assessment on exactly where things fit. Making sure you can't be scrutinized – not only by the Opposition, that's our job. We're going to scrutinize every bill you put forward, but you want things to work properly.

An easy way to get something that works is to ensure the general public and the media can't scrutinize what you're doing, because it's open and it's transparent. You've started a concept of saying you want to be open and transparent. Well, here's your signature bill; here's your best opportunity to do that. Your best opportunity to show the people of Newfoundland and Labrador what you stood for in the election, and the people, through our democratic process, elected you and gave you the right to govern and expect you to live up to those expectations. You've started the process; now complete it and do it right.

Do it so that at the end of the day, you can't be scrutinized. Do it so that at the end of the day, we walk out of this House and we're happy in the Opposition that this bill is something not only did we support because bills have to go through the process – there's an administrative, legislative system that has to be followed, and we need to move things forward – but because at the end of the day, we're doing something that's a milestone for this province and the people of this province.

I ask, I encourage, and I've looked at them – I could go through them article by article. We could go through which ones we're going to discuss and amend and the whole general discussion, but I'm looking forward to when Members on the other side, particularly those who drafted the bill – and there's no doubt there is a group of line ministers who worked very closely with Executive Council to look at exactly what the intent is – how you can address some of the inadequacies that are in this bill and some of the things you are going to be challenged on when it comes to the general public questioning how this is any different than the previous process, other than you have another committee, another layer of administrative thing. You have another open call. There's another part of maybe even slowing the process in some cases.

You want it to be exactly what your intentions were: open, transparent and fair. We encourage that; we support it. We want to be able to move it forward. But we do want to ensure that everything covers exactly what you stood for and what we would support. That every entity has to have the right people, the most qualified people, to be able to do that job and ensure whatever service that they're responsible for or whatever appeals hearing they're responsible for, that they understand it and they can give the best decisions based on the information they have.

I think it is a simple concept to go forward. There's a lot of good, open documentation about the agencies that exist here. There's a lot of good about certain areas and how you would do certain things, but the underlining challenges here are first around the appointment of your commission, your overviewing commission, how that is not going to be perceived as being politically oriented. The second is going to be about all these entities that are exempt from that process, that still don't take the politics out of appointments. You have a great opportunity to do it here – great opportunity to do that.

So I look forward to, as this dialogue happens over the next number of days, how we get into the point of understanding exactly your rationale for the two-tiered system; your explanation as to why an appointed commission by your government would not be perceived as being a political

process, that people who have a vested interest or a connection to a political party would not, in the best interests of their own parties, suggest certain people would be moved forward.

Take that out of it. Take a process there where people could come in and then you can't be labeled. Not that people would do that but, again, in politics, 99 per cent of what we do is about perception. I mean, the civil service help drive what we do here so you know that the information we put forward is accurate. The information we put forward, no doubt, is in the best interest. It may not be what everybody likes, but it's always in the best interests of the people here because it's based on the data we have, the evidence.

You're touting yourselves as an evidence-based administration; live up to that. I look forward to it. I would applaud you. I have no qualms applauding you guys when you show that. When you show that evidence, I'll be the first one to clap and say: Good policy, good job, good program, we can support that, without a doubt.

But to do that, this has to be your signature; start off right away. Start off where your commission is going to come through, how that's going to be impartial; how people who are on that, regardless of their backgrounds, got selected that it was fair, transparent –

SOME HON. MEMBERS: Oh, oh!

MADAM SPEAKER (Dempster): Order, please!

MR. BRAZIL: – open and that everybody in this province had an opportunity to be engaged and be part of that process.

Once we get to that point, we're in a good place. We can have a good, open dialogue then. It won't be jabbing back and forth; it will be particularly just about asking for clarification. I'm about clarification. You clarify something in here that I've got a misunderstanding or I'm not clear on, then I'll nod and go along with it. If there's something I still don't think is right, that's where we'll challenge. We have that ability here as we sit, stand and speak in this House about making amendments. Those amendments may be amendments that you guys are comfortable with. They may be something that you might say, yeah, that makes sense. We need to move this to this level.

Do you know what? At the end of the day, serving the people in the best way possible and ensuring the fiscal challenges we have are addressed by the best, experienced people – we have great politicians, great ministers here, great bureaucrats here, great Members on the Opposition to be able to challenge that; but we also need to ensure the boards and agencies who are going to direct the billions of dollars that go out in programs and services are the best people we have, and are the best people because these are the people who committed to being part of this process because they are open to doing what they have to do.

Madam Speaker, I know my time is up.

MADAM SPEAKER: Order, please!

MR. BRAZIL: I want to thank you for this and I look forward to speaking this again.

Thank you, Madam Speaker.

MADAM SPEAKER: Order, please!

I remind the Member his time has expired.

SOME HON. MEMBERS: Hear, hear!

MADAM SPEAKER: The hon. the Minister of Natural Resources.

MS. COADY: Thank you very much, Madam Speaker.

It is my privilege and honour to speak to this very important bill today. I think it is a hallmark piece of legislation that will be reflective of the kind of government that this new Liberal government will be bringing forward.

SOME HON. MEMBERS: Hear, hear!

MS. COADY: Because it does speak to the skills-based competency, the level of integrity and the level of openness and transparency that we would like to see in government.

I listened intently to the hon. colleague opposite and I wondered if we were reading the same bill because he asked about an open process. He talked about even having read the red book from the previous election that colleagues on this side of the House supported greatly. If he truly did read that piece of documentation, he would have seen in that documentation clear articulation of the principles by which we arrived at this bill. That is around ensuring there is a level of competency, a level of integrity in the process of appointing board members. Always in that particular document, Madam Speaker, we spoke about the requirement to go to – recommend it to go to Cabinet because, of course, there has to be a process around this.

Madam Speaker, the bill itself requires appointments to agencies, boards, commissions, as well as other select appointments to be subject to a merit-based process. I think this is incredibly important to the people of this province. We want to have the skill sets. I think board members on all sides of the equation want to have the board members that we require; the level of competence, the level of skill and knowledge on these boards of directors and various organizations that make up the tier one.

I want to clarify something for my hon. colleague. He questioned why tier one and tier two. I want to make sure he understands, and I think it's incredibly important to understand, that the Public Service Commission will serve as a secretariat and will work with the respective departments to develop a skill and credentials profile for each agency, board and commission.

The tier-one boards have to go through a specific process because, of course, Madam Speaker, they are the larger, more sophisticated paid boards from the Government of Newfoundland and Labrador. So the level of sophistication and requirements has to be there. That's why tier one and tier two does reflect on the level of importance, I guess, if I could use that word.

Madam Speaker, I stand in the House as an institute of corporate director, an accredited director. Myself and the Minister of Finance have both been through a pretty rigorous process by the Institute of Corporate Directors to ensure that we have directors in companies across our country that have the education, the skills, the knowledge, the background. We go through a rigorous process of examination to ensure that we have the right credentials. Both of us are accredited directors as part of that. So it becomes very important to me personally – it is very important to me personally, and I know it's important to all my colleagues on this side of the House and I'm hoping on the other side of the House, that we do

have the credentials, the skill sets and competencies required on these boards of directors.

You can appreciate in times past, Madam Speaker, and we've seen it even recently with the former government, where appointments were appointed based on something other than the requirements that may have been for that board of directors – something other than the requirements of that board of directors.

You can appreciate on a board of directors, Madam Speaker, on an agency or a commission there will be specific skill sets depending on the board of directors. That's why we have a process where the Public Service Commission is going to have the secretariat; they're going to work with departments.

They're going to develop that skill and credentials profile for each agency, board and commission. It's incredibly important to have the right mix around the table so that, for example, you have people that have a financial background, people that would have had perhaps information or interest in a particular area.

Madam Speaker, the hon. Member from across the House talked about having an open process. We want to encourage residents across our province to play a very vital role in the opportunity that ultimately transformed the operations of government, quite frankly. We want to have equality and diversity and having qualified people.

We welcome the involvement and open the process to anyone in this province who has an interest in a board, agency or commission who has the skill sets required, who has the knowledge and who has the willingness to be involved. We welcome to have their names as part of this process. They will be vetted by the Public Service Commission. It will be an incredibly thorough process. The names will be generated, and then of course those mix of skill sets – because it's not just identifying credible candidates and those with the credentials, but it's also ensuring the right mix is there.

We really want to take politics out of the equation. We really want to make sure the people that sit around a board of directors are the right mix to provide what is often called in the industry the tension required. The ability for a board of directors to test management, the ability of a board of directors to ensure that there is what I'm going to call some pressure, some testing back to management to ensure the right decisions are being made.

We are going to have an Independent Appointments Commission who will be robust in those efforts, who will take the names submitted, who will look at the skill sets required around the board of directors and who will bring forward three names for review – three names for each position. I think, Madam Speaker, it is incredibly important to have a number of people's names brought forward because you're looking for the right blend and mix of people around a board of director's table. We want to ensure the skill sets around the table actually lend to positive outcomes and ensuring we have a robust discussion at the board table.

My hon. colleague, the Minister of Finance, will know, who sat on a number of boards – I've sat on a number of boards of directors. I'm sure many of my colleagues on this side of the House and I'm sure many of my colleagues on the other side of the House have sat around board tables and have always noted that if we only had somebody with finance experience or lending experience or the different types of skill sets that a board of directors should require. I think it's vitally important to the people of this province they get the best people, the best mix of skills and abilities around a board

table to make the right decisions on behalf of the people of Newfoundland and Labrador.

We're listening with intent to some of the issues of clarity you wish to have, or listening with intent to some of the suggestions you may have. We're listening with intent to some of your recommendations for change. We want to ensure this is the best piece of legislation to ensure we have the best quality of people around a board table, to ensure we have the most robust process in checking skill sets and credentials, and allowing the process to be open, and allowing people to bring their ideas forward on how they may be able to contribute to a board, a commission or an agency.

Mr. Speaker – Madam Speaker, my apologies. Madam Speaker, that brings me to another point. We want to make sure we have diversity around a board table as well. We want to make sure we are reflective of our society. We want to ensure we are encouraging, for example, women to be involved in boards of directors. We want to ensure the process is open to allow people of different ethnicities, people of different cultures, people of different walks of life, to be able to bring their skill sets to the table.

Madam Speaker, this is an incredibly important piece of legislation, I believe. I think it is supported, I know, by many, many people. I think the Institute of Corporate Directors will be pleased to know we are, as a Government of Newfoundland and Labrador, stepping up to ensure we have this kind of rigorous process around getting the right mix of skill sets around the table.

Madam Speaker, as I said previously, I want to encourage people to put their names forward. We want to encourage people. We want to ensure the Public Service Commission has a great number of people to choose from in bringing forward that good mix of people around our board tables.

Madam Speaker, I read with interest a very important report called the Review of the Governance Framework for Canada's Crown Corporations. I don't know if my hon. colleagues have had an opportunity to review this report. It was a report to Parliament under the auspices of the Treasury Board of Canada: Review of the Governance Framework for Canada's Crown Corporations – Meeting the Expectations of Canadians.

A very important document, I thought. Because I have such an interest of governance, of course, I read the entire document. In the document it talks about having this kind of independence, of ensuring that you bring the right mix of people around the table, of ensuring that you take kind of the politics out of choosing somebody at the board.

A lot of times in boards of directors – and this is not just in government but across the board, where you bring on your friends or your colleagues, people that you know. People you know will do a good job, but people that you know. Now we're taking a step back from that and saying: Well, what skill sets do we need? What life experiences do we need? What kinds of diversity do we need to see around our board table?

I think it's remarkable. I can table this, if so wished. It's available on the website, but it is available to you and I would be happy to table this report. I will get you a fresh copy because my copy is rather marked up and dog-eared because I've been through it so much.

Madam Speaker, I think it's important and I want to ask my colleagues across the House to really consider supporting this. I think it is a great piece of legislation. I think it's going to be a hallmark, as I said earlier, of this government of

really being open, transparent, accountable, ensuring that we have the kind of level of scrutiny and the level of commitment and the level of integrity to process for our boards, for our agencies and for our commissions.

Madam Speaker, I can't say enough about how I feel about this legislation. I think that it's very well thought through but, again, open to suggestions, if that is warranted, but we want to make sure we are rigorous in our process.

The Independent Appointments Commission will be served by the Public Service Commission, which again is a layer of autonomy and independence, of professionalism feeding the Independent Appointments Commission. Ensuring that the Independent Appointments Commission can consider the mix of people and then, of course, bringing three names to Cabinet to ensure that we, again, have those eyes on making sure we have the right person on the boards of directors.

Madam Speaker, the board of directors of any organization has a fiduciary responsibility to ensure they are meeting the mandate of the organization, and they have a responsibility to ensure financial oversight. They have a responsibility to make sure the mandate is being considered, ensuring the process is being – and they give that level of – I'm going to call it – scrutiny and oversight to the management.

We want to make sure the people that are serving on the organizations have been thoroughly reviewed and vetted to have the skills they require to be able to do that. I think it would serve this province well to have people being able to serve in that function. They do not serve at the whim or will of a government; they serve because they have the skills, the abilities, the competencies and the right skill mix that is required by a government.

Madam Speaker, I ask my hon. colleagues to consider this well, and to consider well the intent of this bill. I think the intent of this bill is pure in its will, in its want, in its desire to ensure the agencies, the Crown corporations, the boards of government that serve the people of this province, that serve sometimes as volunteers – sometimes they might get a small stipend, but they do serve the people of this province when they sit on these agencies, boards and commissions.

It is pure in its intent to make sure the right people are around that board table. I thank the people that have been there in the past. Madam Speaker, because we're always forward thinking and talking about the next process, but we have a lot of people serving the people of this province now on boards and agencies and commissions and their hard work and efforts have always been appreciated. I think that's important to recognize and say as well. This is not about whether we have the right mix now; it's whether we have the right mix going forward.

I want to make sure we appreciate – I like to think is a good word, and I think all my colleagues would give much appreciation to the people that do serve today, and hopefully will serve tomorrow, once we've been through this rather rigorous process of making sure we've considered who sits around this table, what skill sets are required.

A full skills matrix – my hon. colleague, the Minister of Finance, will know this from boards she's sat on, and I'm sure others who've sat on boards of directors would have looked at skills matrixes and said: What's important to this board? As I said earlier, do we need somebody with financial skills? Do we need somebody who understands the role of this particular board or agency? Do we need somebody who has public relations skills? What we're doing is looking at that and looking at the skills around that board table.

I urge my colleagues to consider that. I think there are several elements to really consider. This comes from the report that I referenced earlier: Review of the Governance Framework for Canada's Crown Corporations. It talks about several elements required for a sound, corporate governance system: clarity of objectives and expectations; clear lines of accountability; transparency in the application of and compliance with rules; and a culture based on an ethical foundation.

I think that we all want to get to the point, Madam Speaker, where that skills matrix, where we want to make sure that we have the people around the board table that meet the requirements of the organization, that understand the transparency and accountability frameworks, and can move the boards, agencies and commissions to the next level.

I know the Institute of Corporate Directors, Madam Speaker, is running a session here next week, I believe, on Crown corporation governance. They're doing a piece of work around that to ensure that they are offering the education requirements, the education to assist boards with their ongoing education. But they are also offering the Institute of Corporate Directors program here I think beginning – Minister of Finance – this fall.

I had to take the course in Toronto. I think the Minister of Finance took the course in Halifax. Now, thankfully, the Institute of Corporate Directors are going to bring that program here to Newfoundland and Labrador, run with the University of Toronto and Memorial University. I urge and encourage my colleagues to take the program. It is thorough; it is challenging, but it is also very rewarding.

You learn a lot about the requirements of various boards of directors, public boards, private boards, ones that are on the stock exchange and ones that are Crown corporations. It runs through, but it also runs through all the different aspects that a thorough and knowledgeable board of director can give to an organization; everything from compensation to how to do the right hiring for the organization, how to ensure that the –

AN HON. MEMBER: (Inaudible.)

MS. COADY: Pardon me?

AN HON. MEMBER: Technology risks.

MS. COADY: The technology risks, looking at the whole risk matrix – thank you very much – of the organization, the profiles of that organization. It gives you, as a potential board of director, some great knowledge, some great learnings that you could take back to the board. I thought it was very thorough. I understand the Minister of Finance also thought it was quite good.

I'm proud to be an Institute of Corporate Directors director. I know my hon. colleague is as well. I think it brings an awful lot to the boards of the institute – sorry, of the boards to the Crown corporations, agencies and boards of government.

So I encourage my colleagues to please give this thorough analysis and thought. Your support would be important to ensure we have the right skill mixes and the right competencies around those boards. I know everybody here would want to do that. I know that we want to ensure integrity in the process.

I thank you for the opportunity to speak very passionately and strongly to this bill.

MADAM SPEAKER: Order, please!

I remind the Member her time has expired.

MS. COADY: Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

I'm very happy again to stand and to speak, however, for the first time on Bill 1. Madam Speaker, that has such a lovely ring to it.

I would like to say this bill is – perhaps it's not about taking the politics out of appointments, because really all the work that's being done by many of these boards and commissions are about politics. It's about how we live our lives together. It's about how we manage our resources.

Perhaps it's best said that this is about taking the partisanship out of appointments, not specifically the politics, but the partisanship. I fully can support this bill; however, I'd like to focus my comments on one area in particular, and that is the issue of inclusivity and diversity.

Madam Speaker, if I could draw the attention of the Members of the House to the lovely portraits that surround our gallery right here. There's one thing in common: every single portrait is of a white man. That's true.

Also, I'd like to draw everyone's attention to the makeup of our House of Assembly. Out of 40 representatives, we have nine women, which is less than 23 per cent. That's the reality we are living with right now, Madam Speaker.

I'd also like to go through a list. This may be tedious, but it may not be as tedious as having to constantly raise this issue. I find it tedious as a woman, as a progressive woman, to constantly have to raise the issue of: Where are the women? But also not just where are the women – who else is not at the table? I believe, Madam Speaker, that is one of the key issues that is missed, that is not addressed in this legislation. There is no policy for a gender lens. There is no policy for any kind of diversity lens. I believe that's what this bill must include. We must have an actionable policy on diversity.

If you would please bear with me, this is a tedious exercise but I'd like to take us through it a little bit. I would like to list some of the agencies and boards that have appointments of chairs and CEOs. I'm not talking about other members of the boards or the agencies, but specifically the chairs and the CEOs.

Marble Mountain Development Corporation, chaired by a man; the Public Service Pension Plan Corporation, that's not available right now; *Access to Information and Protection of Privacy Act*, a man; *Auditor General Act*, a man. I'd also like to thank these folks for the incredible work they're doing; very competent, very knowledgeable, doing great work on behalf of the people of the province. I'd like to thank those who serve on our boards and our commissions and our agencies. It's very important work. It is about the politics, about how we live our lives together, how we share and manage our resources.

The Business Investment Corporation, a man; the *Canada-Newfoundland and Labrador Atlantic Accord Implementation*

Newfoundland and Labrador Act, a man; *Centre for Health Information Act*, a man; *Child and Youth Advocate Act*, a woman.

SOME HON. MEMBERS: Hear, hear!

MS. ROGERS: Thank you. She's working very hard and doing a great job.

The *Citizens' Representative Act*, a man; the *College Act*, a woman; the *Elections Act*, a man; the *Emergency 911 Act*, the chair is a man; the *Environmental Protection Act* and the waste management regulations, a man; the *Energy Corporation Act*, the chair, a man; the *House of Assembly Act*, a man. I could go on and on and on.

Madam Speaker, I am aware of how tedious this is, but it's not as tedious as having to constantly raise it and draw attention to it. It's not as tedious as having to constantly lobby and push to make sure that we have diversity and that there is an absolute, undeniable, measurable policy of inclusivity in all the work we do.

I'm not going to continue on with that, but the final numbers in terms of CEOs and chairs are 30 men and 11 women as it stands today. That's about 35 per cent. I'd like to remind us that that happens just by chance, not by any policy. I believe, Madam Speaker, that's what we do need in our legislation. We need a commitment to a diversity policy. What this is about is we must constantly ask the question, who is not at the table, because it makes a difference.

Now my colleague from St. John's East – Quidi Vidi was at the technical briefing for this bill. When she asked the Public Service Commission representatives – who did a great briefing on the bill, because they said it was a merit-based process that they would be using. She said, what about a gender lens? They said no, no, no, this is about merit.

Well, we have to look at, what does that mean? What does merit mean? What do qualifications mean? When we're looking at the issue of diversity, again, we must constantly ask: Who is not at the table? What perspective, what experience, what expertise is not at the table? It's not just about what you may have learned in management school or what you may have learned in communications. It's also about our lived experiences from which we live them.

One of the things when I invited the Members to take a look at every portrait here in our House, again, every single portrait is of a white man. We cannot change the past. We cannot change the past, but we certainly can shape the future. That is what I'm asking government to consider today. We can't change the past, but we can shape the future. I am asking them to commit to a policy of inclusivity and diversity.

Now, I know the current government's counterpart in Ottawa in December 2015, when he guaranteed gender parity in his Cabinet, he was asked, why did he do that? How could he do that? He said because it's 2015. Well, I'd like to say at this point, Madam Speaker, that today is 2016. There is no longer any reason not to have women at the table, First Nations indigenous people at the table. We need differently abled people at the table.

Imagine the experience that could be brought to the table with people with different experiences, lived experiences, when we look at some of our commissions and agencies. We need people from the LGBTQ community. I truly believe we also need people from a different socio-economic background. More often than not, the people who are on

these boards and commissions are people with a higher level of formalized education, probably meaning, then, with higher levels of income.

Madam Speaker, in fact, we need people with different lived experiences because these boards and commissions are about politics. They are about how we manage our resources, how we manage our community, how we manage our laws. We do need to have these different experiences at the table.

To not do so is a loss. To not have the inclusivity and to not have the diversity at the table means that our decision making is impoverished. It means that our management of our resources and how we live together as a community is impoverished. It's like going through life with one hand over your eye and only being able to see part of the equation.

I believe, again, that when the Minister of Natural Resources gets up and says we really want to hear input, we want to hear suggestions so that we can make our legislation more robust – I will be optimistic here and believe that government means that. We can't leave it to chance. When we look at the situation of the Cabinet table, there are three women out of 13 positions. It's 2016. There's no longer any good excuse for that. I'm sure there are women – my colleagues across the aisle here – who are very able and have the skills that are needed at the Cabinet table.

Without government committing to an inclusivity lens, a policy of inclusivity, we will yet again see the same thing happening again and again and again. We have to constantly ask when we put together a table, who is not at the table? Then, at times if the table is too small we have to make the table bigger, because without doing so we are impoverished in our decisions, in our deliberations and in our management.

Again, Madam Speaker, we cannot change the past but we can shape the future. I believe because it's 2016, it is truly time to do the right thing and to ensure that our First Nation's people, our indigenous people, women, members of the LGBTQ community, people with different disabilities and abilities are all represented at the table, that the people who represent our demographics and our life experiences are at the tables where decisions are being made.

Thank you very much, Madam Speaker.

SOME HON. MEMBERS: Hear, hear!

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

SOME HON. MEMBERS: Hear, hear!

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

Again, it is indeed a privilege to get up here today and to represent the beautiful District of Cape St. Francis.

Madam Speaker, this is the first bill that the new government has brought to the House of Assembly and it's a very important bill. It's a bill that I think the people in the province were really looking forward to. It's a bill that will set the stage for their governance in the next four years. It's important that when you do things, you do things right.

I believe in this bill. I believe we do have to – well, as they say – take the politics out of appointments. I really do believe that. In saying that, Madam Speaker, I'm not going to go back and do what other people – you hear people back and forth across the House say: oh, so and so, and so and so, you appointed so and so. I'm sure that most people who

were appointed over the years were qualified people, good men and women who served on these boards. I really want to thank people who did it because it takes a lot of time and commitment to be able to do what they do.

We have a lot of boards and agencies in government that requires a lot of people to sit on them. Sometimes I believe it is difficult even getting people to do some of the work that needs to be done, especially for the boards that are non-paid. It's easy enough to say to a person, listen, we want you to be on a board but we're not going to give you any money to do it and you have to do all this time and effort. Unless they're really into that, it's a difficult job to get somebody to do it.

I really want to say thank you to the people over the years that have done it. Basically, we look in Newfoundland and Labrador at volunteers; that's a real sign of a volunteer, that a person is willing to do that and not get any money to do it. It's very important, I think, that we recognize these people.

This piece of legislation, Madam Speaker, I agree with 100 per cent. I agree with the legislation but I'd like to see it done in a proper way. I'd like to see it done so that we do it – if we're going to do this piece of legislation, that we do it right the first time. It's very important that we do it right.

I'm not judging anybody who goes on, like I said, any boards or any appointments in the past. I respect them and I'm sure they're very qualified people, but as the past election went on we looked at the promises that were made. I did not read the red book. I never read it, to tell you the truth. I didn't read the red book but I heard some of your promises. This was a promise where I could agree with you. I could agree to take the politics out of appointments. I agree with that but let's do it properly. Let's do it the right way.

Now I have to thank Executive Council and the Public Service Commission for giving us a briefing on this bill. They did a great job. We went through it line by line and everything else and it was a good explanation. I really understand what they were trying to do. The concept of the bill is to make sure that we get the proper people, qualified people and the best person, whether it's male or female or whatever. I believe in the best person for the job.

I'll go back to my hon. Member who just spoke up here a little while ago. I had a group of people in the House of Assembly just recently, a seniors group. The very first thing, when they came into the House of Assembly, they said: What are all the portraits across here? I said they are former Speakers of this House. The very first thing they noticed, they said there was neither woman. I agree with her. That's the very first thing people noticed when they came in here. That's sad because we have some great women in this province and I'm sure there would be no problem to have a female Speaker in this province.

SOME HON. MEMBERS: Hear, hear!

MR. K. PARSONS: But, do you know what? Times change and we have to change with the times. Today we live in a different society. We live in a society where people are more involved, and more want to get involved. They really want to make sure things are done properly. Again, this bill is a great bill but it needs to be done properly.

Now, Madam Speaker, I'm just going to look at little parts of the bill that I want to bring up today. This is called an Appointments Commission. So Appointments Commission, I think it should be changed to a recommendation because they don't appoint anybody. It's a committee of five that's going to be set up and it looks at all the different applications

they have from the Public Service Commission and they select three. They make recommendations. The recommendations they make to Cabinet and then Cabinet, politicians, have the choice to pick one of those recommendations.

The scary part of it all, that's okay if they can pick just one of the three and we know the three and they get ranked, and that's who they pick, that wouldn't be too bad, but that's not how this works. How it works is they'll send three recommendations to Cabinet, but Cabinet can have another person they have in mind that they want that job for.

Then if they decide the three people that were recommended go to Cabinet, they decide that, no, we're not going to accept these three people, we're going to put our own in – and no one will ever know, will ever know the three people that were recommended for the job by this independent commission go to Cabinet, but Cabinet says, no, hold on now; that's not the person we want there.

Do you know what? The thing with a lot of these authorities and different organizations, they have to work with Cabinet. And you do want a person that can work with Cabinet in these appointments. If you're going to say you're going to take the politics out of it, then take the politics out of it. You cannot say we have an independent commission, and the independent commission is going to recommend, not appoint – now, there are no appointments in this commission. They're going to recommend these three people are qualified for the position, but then it goes to Cabinet and Cabinet can decide a separate person. They don't need to accept – now, I don't know if they will or not, I really don't know, and then we'll never know.

How is it taking the politics out of the appointments if we never know who was selected, if it was the independent commission, were they the ones that selected this person; or was it that Cabinet said, no, we don't want these three people? No, they're not the ones for us; we want someone different.

We'll never know. That's the problem I got with this bill. The secrecy of the bill is where I got the problem. I agree with the bill, 100 per cent. I really want to see the best, qualified person get the job. The best, qualified person should get the job.

MR. JOYCE: John Ottenheimer (inaudible).

MR. K. PARSONS: The Member for Bay of Islands, I'll give you the opportunity to speak, too. John Ottenheimer is a very fine man; I'd like to tell you right now.

SOME HON. MEMBERS: Hear, hear!

MR. K. PARSONS: He's a very fine man. I know the man and he's a good man. I don't think you should be slandering his name here like that; he's a good man.

Listen, I can go with names –

MR. SPEAKER (Lane): Order, please!

MR. JOYCE: Mr. Speaker, I get a point of privilege here.

MR. SPEAKER: The Speaker reminds Members there is no point of privilege. I would ask the Member to have his seat.

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

MR. SPEAKER: The Speaker recognizes –

MR. JOYCE: Point of privilege, not a point of order. There is a big difference.

MR. SPEAKER: Point of privilege, the Speaker will hear the Member.

MR. JOYCE: The Member –

MR. K. PARSONS: Oh, come on now. I only have a bit of time (inaudible).

MR. JOYCE: You can stop the clock; we'll give you time.

MR. K. PARSONS: (Inaudible) you get up and speak.

MR. SPEAKER: Order, please!

MR. JOYCE: The Member opposite said that I was slandering John Ottenheimer's name. That is absolutely not true. I did not say one word about John Ottenheimer. I can't let it be on the record and I ask that the Member withdraw the comments because I did not slander John Ottenheimer's name. I can't let it stand on the record, Mr. Speaker.

MR. SPEAKER: Order, please!

MR. JOYCE: I ask the Member to withdraw that statement.

MR. SPEAKER: Order, please!

There is no point of privilege.

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

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The Speaker recognizes the Member for Cape St. Francis.

MR. K. PARSONS: My whole point, Mr. Speaker, when I started off my speech here today is that this is an appointments committee and we're looking for the best possible person. I'm not going back to what happened in the '90s, in the '80s, in the '70s and in the 2000s. I think this is a great piece of legislation. Moving forward, we should make sure we do it properly. Moving forward, we should make sure that the best people are selected.

My problem with the piece of legislation is that – what's happening here with this legislation is that there is a secrecy part involved. There's a part to this legislation where people will never know who the person was that was selected. They'll never know that the three people that were recommended never got the job.

The independent commission that we're working on and getting it all set up for, they'll make a recommendation, but we'll never know if that's the person that was selected – we'll never know it. So how is that taking the politics out of this appointment?

I listened to the Minister of Natural Resources get up. She made some great points today. She said how important it is of what we do, and how this needs to be done and everything else. I agree. I agree 100 per cent, but just look at what we're doing here.

I believe, Mr. Speaker, what should be done in this, we should have an all-party committee. I agree that an all-party committee should be set up so that all parties have a right to

say. The five people that are appointed to this commission, we should all have a look at it and say they're great people, non-partisan. Is that what you want? Is this what the intent of the bill is?

So why can't we do like we did when we got together with the fisheries, when we got together with mental health and addictions? Last year we had an all-party committee put in place. This is very important. This is what the people of the province want. I know it's what people in my district want. They want to see that we run a tight ship and that things are done right.

Right now, this bill is a great bill. The intent of the bill is great, but what's inside the bill is not so great. If you go back and look at what the promise is, the promise is to take politics out of appointments. There is no way – this is not doing what the promise is all about. This is a broken promise. This promise is broken to the people – because there are ways you can do it. We need independent – if you look at the independent, it's not independent. It's an independent commission. It's a recommendation commission. That's all.

I heard the Premier the other day when he spoke about it. He said if that happens, they just give it up and quit. If they quit, we'll have to put somebody in their place. So if the commission, the five people look at it – they are the only ones who are going to know who the recommendations are. So the only recourse they got is to quit. Give it up. If you don't like what we're doing, give it up.

That reminds me of old-time politics. If you don't like what we're doing, give it up. That's exactly what is happening here. I'm all about fairness. I believe –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. K. PARSONS: I believe in fairness –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. K. PARSONS: – this is a good piece of legislation, a great piece of legislation, but what we're doing is wrong, the way we're going about the legislation. The intent of the legislation is good, but what's inside the legislation is not good because there's still secrecy. There's no ranking.

If you take the independent commission, they can't even rank the three people they're going to recommend to Cabinet. So wouldn't you want to see, okay, this is how we rank them? This is the number one person because it meets this criterion. This is number two, meets that criterion. This is number three because it meets another criterion. They all have their own things they bring. Then the Cabinet can have a choice and say, okay, that's what we want to see in that person. But that's not what's happening.

So they are just putting up three names. They'll give three names to Cabinet and they'll say to Cabinet: Okay, Cabinet, these are three people, out of all of the applications we took in from the Public Service Commission, all the people they had from the Public Service Commission that they would have three people and here are the three people. Now, you don't need to take them. That's what this is about.

Mr. Speaker, I believe that whoever is on this commission should also take an oath for impartiality, too. They'll take the

oath to make sure they do what they got to do and make sure they're doing it in the right manner also.

Mr. Speaker, I'd like to go back to the five people that are selected. I really do believe this House should have a say in – I think all sides of the House should have a say in who these commissioners are, because –

AN HON. MEMBER: You will.

MR. K. PARSONS: No, we won't. Because you guys got the majority and you guys got the vote, and that's how it works in here. If we want to be independent, if we want to –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. K. PARSONS: If we want to be independent and we want the proper way to do this and make sure it's done right, then it should be through an all-party committee to select the commissioners for this. Let them select them and be done on merit that is non-partisan. That's what this is about. It's supposed to be non-partisan; it's supposed to be non-political. This is a far, far thing from non-political. We and the Third Party will have absolutely no say in what it is.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. K. PARSONS: Yes, Mr. Speaker, it's hard to hear here.

The other point I made is about the ranking. I really believe they should be ranked. If there's a commission in place they should have the point to say, okay, here's our number one, and this is the reason why that person is number one. We should do that. I really believe that should be done.

The part of the bill – I know I'm after repeating myself a couple of times on this part of it. I really believe the three people who are recommended – and they should be ranked – I believe they should be the people who are the only three that are there. Cabinet, listen, if you have a person in mind, then they should go through the process just like everybody else. I can't believe they can just have, okay, you recommend three, but we don't want either one of them; we're going to choose our own.

Can someone tell me how that's taking politics out of appointments? There's no way, because the opportunity – the three who get recommended might be the three best candidates. I'm not saying they're not, but it's political if the person they want is not in those three, then they can put that person ahead, and that's wrong.

If you want to be honest with the people of the province and you want to tell them this is the promise we made, we're going to take politics out of it, then you're not taking it out if you can make the decision without any merit or even without the recommendations. Again, it's not an appointments committee, it's a recommendations committee. You can just sit down and you can say, okay, these are the people we want.

Mr. Speaker, even in the legislation there's a way that Cabinet, if it's urgent – and sometimes it can be urgent, yes, and there's no doubt about it that it can be. There could be something that I would imagine you'd want the Chief of Police in as soon as possible if something came or whatever happened. There are all kinds of different boards and things that you'd want to see if somebody is urgent.

I'd like to know how we can – you can bypass, the only time you have to do it is when we're not sitting. There are a lot of times we don't sit. If you take it from probably the 1st of June right to November we're not sitting. So it gives Cabinet opportunity to appoint a person they want to during those times. Again, that's a pretty difficult situation to be in, too. I understand that.

Mr. Speaker, I just looked at the intent of the bill. I really believe the intent is good. I really believe they intended to make this bill so that it would be free of politics. The best qualified persons would be the people who would be able to get these appointments, but that's not how the bill is going to work. I want them to have a real good look at this and realize what they promised and what they're delivering are two different things. That's a fact.

What they're delivering on in this bill and trying to pass through with this bill is completely different than what's promised. You're not taking politics out of it if you can secretly, in Cabinet, appoint whoever you want. So in Cabinet whoever you decide, the person you want to do it, that's the person you'll get to do it.

Mr. Speaker, when it goes back to the five independent people who are selected on the commission, are they really independent? I don't think so. Who selects them? Is it an all-party committee or do people have a say, or are these the five? When we come in here to the House of Assembly, we'll get a bill and it will say these are the five people we selected to be on the commission.

Again, the intent of the five people – I won't question what they are as individuals and stuff like that. Like I said in the past, the past is the past. There are some great people who serve on boards and commissions in this government but I believe that if we're going to appoint five independent commissioners it should be done through a forum in this House where everybody has a say and we are able to select the best five. It's like the best five people, impartial. That's the biggest thing everybody wants to look at in this bill. It's the biggest promise they made. The promise they made was we're going to take politics out of it. It's going to be open and transparent.

Well, this was not open and transparent and it's not taking the politics out of it unless you do it the right way. The intent of the bill is great. The intent of the bill is fantastic, but you're not taking politics out of it when you can go into Cabinet and select a person you wanted and not the independent commission. The five commissioners who are appointed, they are appointed by government. We have nobody else who has a say in it, so how is it independent? How is it taking the politics out of it? Like I said, I just want to make sure that this bill is done fairly and is done with the right intent. The intent is good, but the bill itself is wrong.

MR. SPEAKER: Order, please!

MR. K. PARSONS: Thank you.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The Speaker recognizes the hon. the Minister of Health and Community Services.

SOME HON. MEMBERS: Hear, hear!

MR. HAGGIE: Thank you very much, Mr. Speaker.

This is my first time in debate, so if I make a mistake I'm sure someone will make a comment.

SOME HON. MEMBERS: Hear, hear!

MR. HAGGIE: I can rely on tuition from the other side of the House, if not support from my colleagues.

I think it's interesting that the Members opposite have started to talk about inconsistencies between this piece of legislation and the red book. I actually made the mistake of reading the act and looking at the red book. Just to correct an error, paragraph 1.1 out of the red book said: an Independent Appointments Commission would be non-partisan, screen candidates and recommend the most qualified people for appointments. That, if you read the act here, would apply to section 9(1), which actually says, "The commission shall provide recommendations respecting appointments in accordance with a merit-based process." Now, the language is not identical, I grant you, but I think the spirit and letter is not far removed.

If you actually go through the act and read it, I think a lot of the questions that were raised by the Member opposite, who has taken a break, would actually be answered. Section 6 – bearing in mind the first five are fairly routine ones. Section 6(3): "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly." I think that kind of makes it a fairly public affair where really no one could argue about the individuals concerned being appointed in private or behind closed doors.

The Member opposite complained that because we had a majority, that somehow fettered the House. I would suggest to the Member opposite, the fact we have a majority would rather reflect some failings on the other side of the House. Really and honestly, if they wait four years, they'll have another crack at it.

SOME HON. MEMBERS: Hear, hear!

MR. HAGGIE: In the meantime, it is what it is, as somebody once said. I think the electorate will get to decide who will be the majority and how this process will unfold.

The implication, again, behind these apparent inconsistencies between the red book – and I can table that if anybody is particularly interested in it – and section 9(1) was comments about broken promises. I really fail to see where that came from but, again, I would bow to the expertise of the Members opposite in the field of broken promises rather than this side of the House.

Reading through the act, you've got five members independently appointed. The Lieutenant Governor in Council can designate one as a chairperson. There is a provision for a vice-chair; term of office three years, reappointed once. Then you move over to the next page of the substantive areas. It comments on how the process can work when the House is in session and when it's not, or in the event of incapacity or illness of one of the commission members.

I would go and emphasize again section 9(1): "The commission shall provide recommendations respecting appointments in accordance with a merit-based process."

The Member opposite raised issues around a gender lens and inclusivity. I think those are crucial features of any process and I think the people who would be approved by this House would probably be aware of that, too. In terms of at the end of the day, however, I think the spirit and letter of the legislation is quite clear in that it intends the best qualified candidates to be put forward.

Sub 9(2)(b), "an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances," provides an exemption, but exemptions are then further dealt with in section 13(1) which enumerates a reporting mechanism. "The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation of this Act under the authority of paragraph 9(2)(b)."

Where the House is not in session at the time, it would be reported through a slightly different mechanism, but ultimately it would end up in this House.

I think in terms of transparency and openness, the framing mechanism is entirely appropriate. I think at the end of the day the next set of legislation there looks at the role of the Public Service Commission and basically that would be the secretariat, which houses and supports the functions of the Appointments Commission itself. It refers specifically to support in section 11(1) and in 11(2) it shall do those things that are requested by the commission, where those are required by the commission in the exercise of its duties under this act.

So all of the issues around advertising, the openness and inclusivity would fall under section 12, which under (a) will be advertising and otherwise distributing information respecting the process and appointments and receive applications where vacancies exist. Section 12(b), solicit and accept applications and expressions of interest. So people who are not aware of and posts that are not yet vacant, they can store up a bank of folk who are interested and go through at a more leisurely rate, screening these individuals, to see whether they meet the criteria of merit based with the lens that have been referenced.

Further to a merit-based process, the Public Service Commission will provide to the Independent Appointments Commission a list of all potential appointees, including a list of recommended potential candidates. On that specific item, 10(1)(b) refers, which suggests – in actual fact states: "The commission shall recommend 3 persons for those appointments." And when it is not possible to recommend three and fewer can be recommended then they will also have to report to the Lieutenant Governor, as appropriate, with a specific detail of the efforts outlined to find the three that were unsuccessful.

I think that's fairly detailed there. The remainder of the act really goes on to detail which of government's agencies, boards and commissions fall under what level of scrutiny by the Independent Appointments Commission. There is a list there where the board members would be scrutinized by the Independent Appointments Commission. That's there under a Schedule to the act.

There is also a list there of CEOs for whom the board, the Independent Appointments Commission, would then make recommendations in conjunction with the board, which in the case of the Schedules aligns, and they would have been responsible for populating the board through this mechanism. Then, equally, they would be responsible for recommending to the board in conjunction with the board a CEO. Because at

the end of the day on a governance basis, Mr. Speaker, the responsibility legally thereafter for the activities of a CEO rest with the board of that agency or commission and with nobody else.

I don't think there is any intent in this legislation to in any way constrain or limit that association and that relationship. Because at the end of the day, particularly in light of the regional health authorities, with which I have some expertise, the CEO is their sole employee and it is the CEO who is then mandated to run the activities of the regional health authority.

I think any attempt by legislation to interfere with that would be unwise and, indeed, it is not even contemplated, or expressly or indirectly implied within this act.

Again, at the risk of doing what my colleagues opposite have done in repeating myself I really don't think there are any inconsistencies between this act and the red book. I think the red book was very clear. Paragraph 1.1, a new Liberal government will establish an Independent Appointments Commission to take politics out of government appointments. It will screen candidates, apply a gender lens – which will deal with a specific comment opposite – and recommend the most qualified people for appointments. It comments, in a rather editorial sense, about adding a much-needed level of independent review to the appointment process, given the fact that has not been a significant attention to any kind of process to date.

In terms of the commentary from opposite, I did at one point actually wonder whether we were reading the same piece of legislation because there seemed to be some variance in the commentary from the other side. It was speculative at best and fantastic at worst compared with the actual text of the act, Mr. Speaker.

Once again, there is a majority on this side of the House. That will determine the outcome of any resolutions from the House of Assembly. Quite frankly, that is something that the party opposite had to deal with back in November, and they will have to live with for the next little while. They will get their chance in due course to attempt to persuade the electorate of the wisdom of their choice in November.

Until then, I would recommend strongly that they actually read the bill. Unlike my colleagues opposite, I don't feel the need to unduly berate them with excessive repetition. I think two repetitions and possibly three on the issue of consistencies is probably enough. I would draw my remarks to a conclusion.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Speaker recognizes the hon. the Member for Fortune Bay – Cape La Hune.

MS. PERRY: Thank you, Mr. Speaker.

It's certainly an honour and privilege to rise in this hon. House again today and speak to Bill 1 in its second reading. Mr. Speaker, traditionally in this hon. House, Bill 1, for every session, is known informally as the legacy bill of a government. It sets the tone for the direction the government would like to take.

So Bill 1 is therefore the legacy bill of our new Liberal government, which has promised to eliminate politics and partisanship from government appointments; but,

regrettably, in my humble opinion, I do think the bill falls pretty short. In fact, I think it falls severely short of that commitment. I am confident the suggestions that will be brought forward to strengthen it by Members of this hon. House, if they are actually considered and implemented by Members opposite, then we will in fact have a very strong Bill 1 at the end of the day, Mr. Speaker.

The minister spoke earlier this afternoon about appointments made by the previous government, in her prelude today. The comment I want to make to that is I truly hope this is going to be a meaningful debate, Mr. Speaker. Not one where they just throw barbs about appointments that were made for the last 12 years, because if that's all they have it's really quite disappointing to me, and I'm sure to members of our wonderful province.

If we're going to call a spade a spade, Mr. Speaker, political appointments are the way things were done by all previous governments since 1949. So we can spend our 20 minutes here in this hon. House talking about the days of Joey, Moores, Peckford, Wells, Grimes, Tobin and Williams. We can do that, but what's the point of doing that.

This bill is not about the past; this bill is about the future, and it's about a new government that has promised a new way of doing business. That is what we all agree – Members on all sides of this House agree it's something we would like to see. I'm sure the public would like to see it as well. I truly hope at the end of the day that is the conclusion we come to with Bill 1 in its strengthened form, Mr. Speaker. I won't be wasting the time of this hon. House with such foolishness as throwing out names from the past.

I was delighted, Mr. Speaker, to hear her say when she spoke to Bill 1 earlier this afternoon that they want the very best piece of legislation, because we all want that. I trust they will give some serious consideration to our suggestions for improvements. In fact, I'm pretty sure I heard in Question Period today that they will consider amendments we bring forward to make this bill a stronger one. I look forward to seeing if they actually will agree to the stronger measures that we'll be bringing in to strengthen this bill.

I had the pleasure this past weekend of serving as the Lieutenant Governor for the Metro Youth Parliament, Mr. Speaker. I was quite impressed with their understanding of legislative process. In fact, Mr. Speaker, they spoke of the value of Opposition and how important it is for us as a people and a province to have a very strong Opposition, not just to oppose government for the sake of opposing, but to bring forward ideas and recommendations to make legislation better, in fact, the best that it can possibly be for the fine folks of Newfoundland and Labrador. That is exactly what we intend to do as an Opposition.

I'm going to talk about Bill 1 in some more detail. At the risk of upsetting Members opposite about repetition, I certainly don't mind repeating and will continue to repeat the key points of this bill, until we see the changes that are necessary to make this bill one that actually results in taking out the politics and partisanship because clearly, in its present written form, it does not.

If you truly want to consider independent appointments, if you truly want your appointments to be independent, there are two separate issues you need to consider, Mr. Speaker: first, how independent will the commission gatekeepers actually be; and second, how much power will the commission gatekeepers actually have? Will the gatekeepers be truly independent and non-partisan? This first issue is a critical one. How will we ensure that the gatekeepers are,

indeed, truly independent, neutral and qualified to make sound judgments about the qualifications of candidates for leadership posts in this province? That depends entirely on who will be on the commission, how they will be appointed and how their independence will be assured.

So who are the gatekeepers? Section 6 is the authority under which the commission will be established. Subsection 6(3) determines how the commission will be appointed. It says, "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly." In other words, Mr. Speaker, what that means, in laymen's terms, is that Cabinet will choose the five people and bring their names to the House in a resolution for a vote.

In the spirit of a different House and a different way of doing business, I do believe the red book promised as well they'd have more standing committees. So why not, Mr. Speaker, have a standing committee that brings forward the recommendations for the commission. Why does it have to be something chosen by Cabinet, in the secrecy of Cabinet, but then brought forward to the House of Assembly to be passed in a resolution. Which, as we all know, will pass because once you have over 21 votes in the House, you can pass anything you want to.

We were just clearly told that, whether we like it or not, for the next four years whatever they deem fit will pass in this House. I also heard other Members opposite say they are willing and open to considering suggestions. I look forward to seeing that type of co-operation come forward, Mr. Speaker.

It's all very interesting, and we can have a play on words, but the people of this province are very intelligent. They can read and understand for themselves and see through the spin as to what this bill – in its current form – is really saying.

How can the Liberals say the commission itself would be non-partisan if Cabinet selects them and uses its majority to hire them? If the gatekeepers themselves are political appointees, then how is this process non-partisan?

Cabinet can also fill vacancies, Mr. Speaker. If a commission vacancy occurs when the House is not in session – as my hon. colleague just discussed, the House wasn't in session this year. We had an election. The House didn't open for four months.

I was shocked given how some Members opposite, when they were in Opposition, jumped up and down about the House not being open, but there was an awful silence in January, February and March when we were all anxiously waiting for the House to open. Thank God, it is finally open, Mr. Speaker, so we can get back to the important business of the people.

The House can be closed June, July, August, September, October. It can be closed January, February –

MR. SPEAKER: The Speaker would remind the Member to stay relevant to the bill.

SOME HON. MEMBERS: Hear, hear!

MS. PERRY: Thank you, Mr. Speaker.

Sorry about that. My point is it relates to the bill in that subsection 7(4) says, "Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council" – which is Cabinet – "may appoint a person" – appoint being the key word there, Mr. Speaker – "to act in his

or her place, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting."

In other words, Cabinet can appoint a replacement commissioner as long as Cabinet brings a resolution to the House to confirm that appointment within 10 days of the next sitting. Again, Mr. Speaker, no recommendations from a commission there. That's clearly, purely and entirely a Cabinet appointment.

At certain times of the year that could be a very long time, as I was just discussing in terms of how long the House has been closed. Cabinet could fill a vacancy in June and not have it confirmed until almost November, or fill a vacancy in December and not have it confirmed until almost April. That, Mr. Speaker, can happen with the bill as it's presently written.

Another major concern of mine, Mr. Speaker, is how are the gatekeepers held to account? Currently, if we don't like a Cabinet appointment as a people in this province, we can question the Cabinet ministers. From now on, once the bill passes, if it's passed without amendment, the Cabinet will be able to say the commission recommended this person, don't blame us. It's sneaky.

How can we question the commission about its recommendations? It's one step removed from security and accountability. The commission, in theory, could be just as partisan as the Cabinet because it is the Cabinet, remember, who selects the original members of the commission. Then they use its majority in the House to hire them.

These commissioners will be a step removed from accountability and they are above questioning. That means the new process – you think about this for a moment now. Think about what I just said. In actual fact that will leave the new process less accountable than the current process. That's actually quite ironic when the intent of this bill was to strengthen the accountability. Mr. Speaker, we do look forward to working with Members opposite. I'm sure we will all agree to find measures to strengthen it.

What about if the commission has a defect? Take a look at subsection 6(8) which says, and I quote: "Acts done by the commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the commission, be as valid as if the defect had not existed." Mr. Speaker, this section lets the commission and the government off the hook if it comes to light that a commission member was not qualified or was appointed inappropriately. The decisions of a defective commission will remain valid.

How can a commission member be removed? Subsection 7(3) says the House can make a resolution and then the Cabinet may – not shall, not will, but may – remove a commissioner, assuming that the resolution even passes. Even if it does it is not binding because, like I said, the word "may," unlike "shall," is discretionary.

Mr. Speaker, the act also allows for side-stepping the gatekeepers under urgent and extenuating circumstances. Not every appointment for every entity listed in this act will actually go to the commission for review. That's very interesting. Subsection 9(2) describes appointments that will sidestep the commission's security. Consider what can be excluded by paragraph 9(2)(b): "an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances."

In other words, Cabinet, or even an individual minister, may say a situation is urgent or circumstances are extenuating and skip the entire Independent Appointments Commission process. That's what this legislation, as it currently is written, Mr. Speaker, will allow government to do. Not just current government, by the way; all future governments. Hopefully, we will see this strengthened before it does pass in this House.

When would the government use such an escape clause? Would this be the escape clause that the government would abuse had the act been in place to justify the kinds of appointments that have already been made? How difficult would it be for them to argue that the circumstances were urgent or extenuating? Not too difficult in that type of situation, Mr. Speaker, because you do need staff to go to work and get the work of this important House done. Certainly, every position that we do have I have the greatest of respect for. A lot of work happens by some very fabulous people in this hon. House.

Remember that these appointments are for key posts in agencies, commissions and Crown corporations. Obviously, such posts are vital and there's always some urgency about filling them. So let's suppose the government wants to sidestep the commission. They could use this clause to justify moving ahead and appointing at will, just as every other government has done in past.

MR. SPEAKER: Order, please!

The Speaker would remind the Member we're in the second reading of this bill, so your commentary is supposed to be general to the bill. You get into the specific clauses of the bill when we get into Committee of the Whole.

MS. PERRY: I can't speak to clauses in second reading?

MR. SPEAKER: Again, the Speaker would remind the Member that you can certainly make some reference to the general debate around the bill, but when it comes to specific clause by clause, that is meant for Committee of the Whole.

MS. PERRY: I'm not reading clause by clause, but thank you, Mr. Speaker. We will certainly take that into consideration.

I'll just say, suppose the government wants to sidestep the commission – let me pick it up from there. There's a clause they can use in this bill to justify moving ahead and appointing at will, just as every other government has done in the past, every other government, mind you, since 1949. I'm not criticizing any one government or another. That is just the way things were done. This bill, which is about changing that, is one that, in principle, and in terms of intent, I'm sure all Members of this hon. House do support.

To deem a situation urgent or extenuating would enable any government operating under this legislation to bypass the legislation. So while that may have been fine for previous administrations, the new government is saying it wanted to abide by a different standard, a higher standard. That higher standard, Mr. Speaker, is one we would all like to see. We see a very, very huge and very arbitrary loophole and one that really calls into question the ability of this bill to really result in independent appointments.

Mr. Speaker, there is a reporting mechanism in this bill, under one of the clauses in the bill: "The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation

of this Act under the authority of paragraph 9(2)(b)." Notice the words, "those appointments." It sure looks like the government anticipates using these exemptions in order to appoint at will.

What does this reporting mechanism actually achieve? It's hardly going to be secret if an appointment is made to a senior position. We're going to know about it long before the exemption is reported. The only thing these reports will do is showcase each and every time the government is not truly committed to meeting the standard it has set for itself. Every exemption will come with its built-in excuse, the urgent or extenuating circumstance. In other words, we really wanted to abide by a higher standard, but circumstance prevented us.

Mr. Speaker, I'm not saying that's necessarily something this government would do, but the opportunity with the bill written as it is in its current form would enable this government or any future government to do just that. What we want to do is ensure this bill holds this government to account and all future successive governments to account, because we do want to have a higher standard for Newfoundlanders and Labradorians in this fine province.

Side-stepping the gatekeepers can also be done by having Cabinet amend the Schedule. There's another way they can make exceptions to the independent appointments process. This can be found, Mr. Speaker, in the Schedule that's contained in the act. It lists the entities to which this process applies.

Mr. Speaker, in the interest of sticking to your ruling about not speaking too specifically to clauses, I will hold the rest of my things I want to discuss until we get to Committee stage. I do trust – and, again, I will go back to Question Period today and I will go back to the hon. minister's comments when she spoke for her first time on Bill 1, about how we all truly want this to be the best legislation that it can possibly be.

It's not about enabling the government of the day to do as it wishes. It's about enabling today's government and all future governments to be held more accountable, Mr. Speaker. That is what the intent of this bill is. We truly hope that in the suggestions that are brought forward and in the amendments that will be brought forward by Members opposite, that the hon. government Members will truly give consideration and agree to the changes that we are strongly confident will strengthen this bill so that it actually achieves the intent that was promised.

Thank you so much, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Speaker recognizes the hon. the Minister of Advanced Education and Skills.

SOME HON. MEMBERS: Hear, hear!

MR. BYRNE: Thank you, Mr. Speaker, for allowing me an opportunity to speak on this, Bill 1, which is an Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments.

Mr. Speaker, I'll begin my discourse by simply acknowledging that, indeed, it is this government, this political party – the Liberal Party of Newfoundland and Labrador – which was the only one during the course of the last campaign that recognized the importance of such a commission, and promised it and committed to it during the course of the

campaign as an election promise; which, of course, helped fulfill our commitment to the people of Newfoundland and Labrador to be transparent and open in our dealings, not only in this Legislature, but in terms of our form and function, performing our executive function within the government.

I will note, Mr. Speaker, that it was the first pronouncement that this newly elected government, while campaigning during the general election campaign, made on the campaign trail. We did so through our accountability plank. I reflect on day one of the campaign. We, of course, had already initiated the campaign four days earlier because the sitting government of the day refused to drop the writ. They were proceeding with a process of making political appointments of their own. They were trying to actually roll out public expenditures in advance of the campaign.

While we sensed and anticipated the angst and desire of the people of Newfoundland and Labrador to engage in a campaign, they were engaged in the business of dispensing from the public troth. So our leader came forward with a very sound proposal to provide for an Independent Appointments Commission.

Now, I say that from the point of view that for the next 28 days, Members opposite, the Progressive Conservative Party of Newfoundland and Labrador, had an opportunity to come forward with a similar proposal, if they so chose. They did not, reflecting that this was clearly not a priority of the Progressive Conservative Party of Newfoundland and Labrador.

Remember, Mr. Speaker, we came forward with a specific initiative on day one of the campaign. They had 28 days to follow, if they so chose; they did not. They did not make this commitment. They did not make any public pronouncements whatsoever that they would engage in a process similar or in any deviation of the same; it was the status quo, Mr. Speaker, that they were prepared to initiate and to continue – the status quo. Well, Mr. Speaker, people of this province said the status quo was not acceptable. That's why there was a change of government.

SOME HON. MEMBERS: Hear, hear!

MR. BYRNE: Now, I would reflect as I read this bill, having seen the processes and the way things are done in a different place, I reflect on how the judiciary is chosen and the representatives of those chosen to sit on the Newfoundland and Labrador Supreme Court. The Supreme Court of Newfoundland and Labrador, of course, is an esteemed body. It is esteemed in its traditions, but also in the integrity of the institution that it brings to each and every one of us. It is beyond reproach.

Well, of course, if we examine how nominees to the Supreme Court of Newfoundland and Labrador are chosen, we'd reflect on a simple reality which is that there is a judicial advisory council or a committee. They receive nominations. They receive input from the public at large and from nominees themselves, and they review those nominations. In the end result, they analyze the nominees for their merit. If there is due consideration and they meet the merit standard that is set by the advisory council, then they pass forward and they're eligible to be raised to the Supreme Court of Newfoundland and Labrador. It's the process in which our Supreme Court is chosen.

Well, Mr. Speaker, the argument from the hon. Members opposite is: Let's make the perfect, the enemy of the good. I would make that very clear observation, knowing that this is a sound process. This is a very, very constructive process,

and one that meets a certain standard where it is an example of a best practice. But where I would differ in making the comment that the prefect should be the enemy of the good is that they have established no process themselves. There is no perfection of their side. There is no offer of perfection. There are no amendments that really have come forward because they never committed to ever engaging in a similar body or a similar method of establishing order-in-council and Lieutenant Governor in Council appointments.

When you consider that one circumstance that while criticism or critiques are being offered by Members opposite, they're doing so from a very shallow well. They're doing so from the position that they would never have done this had they formed government. They admit to that because it was never part of their platform, even though they were led by a guiding light from this party that said this is in the public interest. This is what the public is interested in and, as a result of that, by bringing forward our example, they chose not to participate. They had 28 days to do so, Mr. Speaker. They did not revise their strategy. They did not revise their platform. They left it blank. Much of the experience from the PC Party I think will be reflected on, that is one of the reasons why they lost favour with the public.

Mr. Speaker, when we examine some of the issues that are being brought forward by Members opposite, this party is always willing and prepared to reflect on good ideas and to build on the strengths. But one thing we will not do is we will not ever succumb to the notion that those who have basically a bankrupt policy should be those who guide the crafters of the current policy. They have no example to bear to us. They have no example in which they can bring forward and say this is how we propose to do it. Can we amalgamate our ideas? Because they did not.

Mr. Speaker, I appreciate the opportunity to come forward and to raise these valid points. If, at some point in time, any Member opposite would like to table their platforms which actually reflect on the Independent Appointments Commission that they proposed, we're more than happy to do so. I'm sure we can get unanimous consent to allow that to happen, but I think that will be a very short exercise, as I'm not aware that any of the other parties did so.

Can we gauge our behaviour on the quality of the appointments that have been made? Well, I don't believe the previous administration would like to have their actions reflected in such a way. It may not bear favour to them.

Can we look to the future and say we now have a process which is very, very unique, very novel, very innovative, never been explored before on the floor of this House, never been enacted in legislation before despite having been a Province of Newfoundland and Labrador under its own legislative authority since 1949? This is an accomplishment worth celebrating.

We are very vigilant to make sure the details have been sound and worked through. I'm very confident this bill will produce a tangible effect of ensuring and promoting merit-based appointments, something that was clearly lost, non-existent and, quite frankly, un-favoured by the previous administration. Because as we know, just days before the election campaign, what did they do?

They began and initiated the process of making sure that a significant number – several, unfulfilled Lieutenant Governor in Council appointments were suddenly filled just days before. Which, of course, I would argue, wouldn't necessarily meet a certain sniff test, but that aside, we now have a basis to go forward, which I think is sound, which is legislatively

solid but also reflects the character and quality of the leadership that now forms this government, found in our Premier, who was the first to come forward with this and to act on it. No other political party has done so.

That's why, Mr. Speaker, we participated as a caucus in making sure the concepts behind this legislation and, more specifically, the concepts behind the Independent Appointments Commission met, not only with the full benefit of the ideas around us, but through the benefit of the ideas that came from the public at large.

That's why, Mr. Speaker, having seen my time come to near a close, I will offer those perspectives and simply say I support this legislation, but more importantly, it's supported by the vast, vast majority of people from Newfoundland and Labrador.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The Speaker recognizes the Leader of the Official Opposition.

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

Thank you for giving me an opportunity to rise on Bill 1 this afternoon and to utilize my time in this debate. Bill 1 is a very interesting bill to many people. I know on this side of the House we've received a fair bit of input from members of the general public who have taken an interest in it. I was quite interested in it as well.

When I heard last year the Premier, as part of the campaign and part of the platform of the Members opposite, was going to take the politics out of appointments – that's what was sold to the people of Newfoundland and Labrador, taking the politics out of appointments and they had a way to do that.

Now, I'll be honest, I was skeptical of how that would happen. Because we know when you make appointments, and when we were in government and we wanted to make appointments we would generally have – the minister would give direction to a staff person to say, look, contact relevant stakeholder groups, contact people who are interested in the particular topic, people we know who have a vested interest and contact them. Contact the department, relevant departments and so on to determine – look, we're looking for people who have knowledge in a particular area.

If I go to the bill under Schedule C and pick out anyone – for example, the Provincial Advisory Council on Aging and Seniors as an example. We would go to the Department of Seniors and say, well, what organizations and groups do you have that you work with? Who's in the community throughout the province that deals with aging and seniors?

They would say, well, we have the Seniors Resource Centre, a great organization based in St. John's. It provides assistance and support to seniors throughout the province. We have a provincial 50-plus group. We also have 50-plus clubs around the province. In certain areas we'll find people who are standouts when it comes to aging and seniors and people who've taken a vested interest in it and so on. So the staff person would go out and do that work and then bring in recommendations, suggestions. Members of the general public quite often would be consulted and asked, engaged and so on. You would reach recommendations of a committee.

That's what this bill was about, and it always seemed to be political appointments. They were seen as political

appointments. Quite often it was. In my own experience, Mr. Speaker, at times when we were putting together groups or organizations we would say we want a certain value, a certain level. We want a good mix of people.

So, for example, when I was premier and I reactivated the Premier's Youth Advisory Committee, we went out through the Department of Public Engagement – and the Member for Mount Pearl North, at the time, was the minister – and went around the province to youth groups, organizations, schools and education groups. We went far and wide looking for applications. I don't remember the exact number. The Member for Mount Pearl North can probably – maybe he can't remind me. I remember we had a huge number of responses.

So then we went through the process of saying we wanted to make sure we had representation from a variety of backgrounds and a variety of youth from different geographic areas and backgrounds. Some who may be university students, some who might be public college, College of the North Atlantic students, maybe a private college, maybe youth who haven't gone to post-secondary, maybe some who haven't finalized high school. We want people from different parts of the province and different interests and so on. That's how the Youth Advisory Committee was put together.

When the Premier said – the now Premier, back then the leader of the party – they were campaigning, they want to take the politics out, I understood that. I wasn't opposed to and I'm not opposed to the idea of taking the politics out of those types of appointments. I think it's a good thing to do. Anybody I've spoken to about this, or who's raised it with me said, I knew they couldn't do it, or you can't do it because there will be a perception of politics.

If there are loopholes and if there's discretion left to ministers to make decisions, or a group of ministers – and in the bill it refers to the Lieutenant Governor in Council. The Lieutenant Governor in Council is Cabinet. Cabinet is made up of Members of the Liberal government selected by the Premier who formed a Cabinet. That's what LGIC or Lieutenant Governor in Council is. If it's left in their hands to make those decisions, there will be an overtone of politics involved in those decisions. That's what the Premier said he wanted to do away with, that's what he wanted to eliminate. As I said, people were skeptical. I was skeptical.

I spoke to a former Member of the House from some time ago over the last couple of weeks. He expressed that he had looked forward to seeing the bill because he wanted to see how this was going to happen and how this was going to work. He remembers it was a problem back then. It's always been a problem in Newfoundland and Labrador politics where someone's always raised, oh, your buddy got a job, or so-and-so's buddy got a job or was given an appointment.

Most of these appointments come with no compensation. Most of these appointments come with a lot of work, a fair bit of responsibility, an expectation that you're going to contribute, but by far, most of them don't come with a paycheque or compensation. If there is, it's usually quite low.

That's what we wanted to see. It's unfortunate that the bill as it is now, I believe, doesn't accomplish that. I'm going to take my time to explain why. I do get an hour. I want to take some time to explain why and to talk about that.

The bill is broken down into, essentially, two different processes. There's one process under the Schedule attached to the bill which has entities and statutory appointments. So for that particular section there are statutory appointments under the *Access to Information and Protection of Privacy*

Act, section 85, for example. There is the *House of Assembly Act*, section 34. They're appointments under legislation whereby appointments are made to particular roles and functions.

I know, for example, the *Royal Newfoundland Constabulary Act*, subsection 4(1), is mentioned there. Under subsection 4(1) of the *Royal Newfoundland Constabulary Act* there's a section there which allows for the choice of leadership and so on in the RNC. What happens under that schedule of processes – it includes a process by the Public Service Commission.

The Public Service Commission will do a process of deciding merit based, which is all good to do. They do a listing and send it over to the IAC, or the Independent Appointments Commission as it is in the bill. Then the Independent Appointments Commission would send off three recommendations.

Even under today's processes for many of these positions through the Public Service Commission – with their assistance, which they do now – they would make a recommendation. Instead of just sending over three candidates, if there was one candidate who was much stronger than the other two, there will be a recommendation. They would say, quite often, we recommend this candidate. This candidate is by far the superior candidate. This is the better candidate. We believe, based on our assessment, this is the candidate. Under this bill it doesn't allow for that. It only will have a process whereby they send over three names to Executive Council, to the minister and to Cabinet. Then Cabinet is to decide on a name.

Right away that process leaves the suspicion or suggestion or opportunity for politics to become involved. It doesn't take the politics out. At least the perception is and the perception will be that the politics was not taken out. Even though the minister may be recommending a certain person for a job, for a responsibility – and that person may be, by far, the best candidate – because that minister has a relationship, people will immediately say that's because he's looking after his buddy, she's looking after her buddy. People will automatically assume, because people become very skeptical, that politics are involved in this and it wasn't because the person was the best chosen. We don't want that either. We don't want to see that type of slant or belief, especially if it's not warranted.

If you put someone in a position and they're a good person, they're a capable person, and you know them – for whatever reason you know them and you believe that's the right person. The Public Service Commission may have said that's the best candidate we have, but because you know them, because the minister or people in Cabinet know this person, the public will automatically say there's politics involved here, they're looking after a buddy.

That's what this bill allows to happen and that's not right. That's not the way this process is intended to happen. I'm sure it's not what the Premier wanted to happen. I don't believe it's the process that should take place.

I mentioned there are two Schedules. What this bill does is it creates the legislation on the Independent Appointments Commission. It says, An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments. The act will be cited as the *Independent Appointments Commission Act*. That is what the act will become. When the bill is passed by the House and becomes law – and the law is called an act – it will become the *Independent Appointments Commission Act*.

The bill also modifies the *Public Service Commission Act*. It also makes changes to the *Public Service Commission Act*, which is the legislation that the Public Service Commission operates under. What it will do is it will empower the Public Service Commission to have a role in making selections for appointments. It will change the legislation for the *Public Service Commission Act* so that the Public Service Commission – for those who don't know, the Public Service Commission today is responsible for hiring within government. They use a merit-based approach.

Internally of government, when there are internal job competitions and when there are public job competitions, the Public Service Commission does that work independent from government, independent from Cabinet and independent from Members of the House of Assembly. They do a process that's merit based and a person becomes hired.

A minister may say we're going to hire a new person in our department or we have to replace a person. He would sign off on the staffing action. What should happen is after that, he or she doesn't see that anymore until they're advised we have a new person hired through the Public Service Commission, here's the person who's been selected for the job. That's what independence is about.

However, that's not what's going to happen in this process because it still goes back to the minister, it goes back to the LGIC, Cabinet – Cabinet being made up of the governing Liberal Members of the House of Assembly. They still get to make that decision and they also have flexibility in the decision they make.

There are two different processes, Mr. Speaker.

SOME HON. MEMBERS: Oh, oh!

MR. P. DAVIS: I can hear the noise down in the back, Mr. Speaker. I'm just going to keep checking to see if the minister is heckling me down there. He's not; he's having his own conversation. Well, that's fine. I apologize for the interruption.

The second part in the bill then is there's reference –

MR. SPEAKER: The Speaker reminds the Member that the Speaker will keep order in the House.

MR. P. DAVIS: Oh, wonderful. Thank you, Mr. Speaker, I appreciate that. I appreciate your protection.

Mr. Speaker, in this act as well it refers to Schedule C. The Schedule I just referred to is just the Schedule that will be at the back of the act of the Independent Appointments Commission. I have to say I had to read this to figure out exactly because they have two Schedules and they refer to two commissions. Sometimes the commission is the Public Service Commission, sometimes it's the Independent Appointments Commission, but we sorted it out.

In the back there's the Schedule for the Independent Appointments Commission. There are 32 entities and statutory appointments listed there. Entities are: the Marble Mountain Development Corporation, the Public Service Pension Plan Corporation with respect to government appointees. Statutory appointments include: the *Auditor General Act*, section 4; the *Child and Youth Advocate Act*; the *Centre for Health Information Act*, for example; the *Liquor Corporation Act*, subsections 5(1) and (2). There are a number of those. There are 32 of those under that Schedule.

Also, what's most interesting here to me, Mr. Speaker, is Schedule C. When I looked at it I said what's this Schedule C – because there are two different Schedules, what's this Schedule C about? Schedule C is actually the Schedule that will be put into the *Public Service Commission Act* and what role the Public Service Commission will play. Under that Schedule C I think I counted about 74 different entities. The group that goes to the Independent Appointments Commission, there are 32, but there are 74 that will come under the umbrella of the *Public Service Commission Act*.

When I looked at it and I read it – and we had a briefing on this from government. I couldn't find in the legislation, of those 74 entities – and I'll talk about some of them now in a few minutes. Of those 74 entities under Schedule C, I can't find where the Public Service Commission does their work. They do a merit-based approach. They do applications. They will develop recommended criteria for membership to a certain agency, board or commission. They'll do all of that.

Maybe they even go out to a research firm – some people call them headhunters, and they do recruitment for them. Sometimes they go out and they can do that. So the Public Service Commission will be empowered to do all of that.

Then I was trying to find in the legislation, what happens then, after the Public Service Commission does their act and they develop a pool of all those who applied – as I read it here – and they will have a pool of people who are recommended. So, for example, if we take the Premier's Youth Advisory Committee, I will just reference that one. I will use that one again because that's an entity under Schedule C. They take all of those names and I believe when we did it – the Member for Mount Pearl North, maybe his recollection is better – we had a huge amount of applications for the Youth Advisory Committee: 170, 180, 200, something like that.

MR. KENT: It was close to that.

MR. P. DAVIS: It was a huge number, if I remember correctly.

The Public Service Commission would take all that and they'd do a group of recommended, and they'd take that pool – and I said: Where is it? I'm trying to find the legislation. Where is it that it goes to the Independent Appointments Commission? I can't find it. I couldn't find it in the legislation where that happens. So I asked in the briefing, under Schedule C, where is it that they go to the Independent Appointments Commission? I said it looks to me like they don't. I was told in the briefing by officials: You're right; they don't.

So 74 of those entities, when the Public Service Commission goes out and does the work that staff or political staff or Premier's staff or the minister's staff, whoever they decided back when we were there, go out and find its way of gathering a pool of names of people interested, the Public Service Commission will now do that and once they've completed that, they're going to take the pool and they pass it right over to the minister and say here's a group. There might be 100 people who are interested in it. They might be looking for a board of 10, for argument's sake, and they might make a recommendation. Here are 40 people that we would recommend you consider. It says may consider. They don't have to consider. It says may consider – and you can pick from there.

I will read right from the legislation, Mr. Speaker, if I can just have a moment to find it. Under section 21, what's being proposed as an amendment to the *Public Service Commission*

Act – will become section 21 of the *Public Service Commission Act*, if I'm reading this right – it says, "The commission" – which means the Public Service Commission – "shall provide recommendations respecting appointments in accordance with a merit-based process." We're all good with the merit-based process.

Then it says "Subsection (1) does not apply to (a) a renewal or extension ...; or (b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances." So if they have to do something urgently.

If you go on down to section 22, it says, "The Lieutenant-Governor in Council" – Cabinet, a group of governing MHAs who are in Cabinet, so a group of them – "or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment."

So what the law says is that they're required only to consider the recommendations. They just have to consider them. It doesn't say they're going to appoint them or they have to appoint them. The law just says the minister shall consider the recommendations. We have the Public Service Commission that do their work – doesn't even go to the Independent Appointments Commission – 74 entities who don't even go to the Independent Appointments Commission. It bypasses all of that and goes right to the minister. The legislation says the Cabinet or minister shall consider the recommendations.

Here's the next section, very next section, 23, "Notwithstanding section 22" – the one I just read to you that they shall consider it – "the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of" – Cabinet – "the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority."

What that means is even though this group is doing their work, they're set off now to do an important task. We're asking the Public Service Commission now to put together, go out and find hundreds of names for a commission or board, it doesn't matter that we don't have to listen to you. Now, we have to consider it and we have to – it says shall consider, we shall consider recommendations, but you can just push them aside and pick whoever they want.

Now, again, Mr. Speaker, the importance of this is that the whole intent was to take the politics out of appointments. As soon as appointments are made, oh, that's someone's neighbour or that's someone's friend or that's someone you did business with before, people you know because of what you've done through your own lifetime or whatever. The conclusion will be reached very quickly by people who are going to say, oh, there we go, look, another political appointment. That's what they're going to say. There you go, look, the ministers are looking after their buddies again.

Doesn't matter about the law, that was only smoke and mirrors, or that didn't mean anything. That was only doing what he said he was going to do, the promise he made in the campaign. Doesn't mean he's going to do it. Doesn't mean that's what the Premier's going to do. They can do whatever they want. There goes the minister looking after his buddy again.

Well, Mr. Speaker, we don't want that. I'm sure Members opposite don't want that either. The whole exercise here was to take that out of the process. The whole intention of the Independent Appointments Commission was to take people's

feeling that ministers were looking after their buddies. The whole intention was to take that out. Take the politics out of it. Remove that from the process. It was all about so people would have faith in a merit-based process, which we agree with. We agree with that. I agree it's a good thing to do.

If you read further into the legislation, the next section is "The Lieutenant-Governor in Council" – Cabinet – "may, by order, amend Schedule C." Schedule C is the list of those 74 entities. Cabinet could, at any time, amend that Schedule. If they decide they want to remove – I think the example I used was the Premier's Youth Advisory Committee. If they want to just take the Premier's Youth Advisory Committee out of Schedule C and not even go to the Public Service Commission, they can do that, too, or if they want to add some others to it. Maybe they want to move one from the Schedule in the back where they have the three recommendations; they want to move it to Schedule C where it doesn't even go to the Independent Appointments Commission. According to this, they can do that as well.

The problem here with this legislation, while the intention of it, I believe, has merit, is it doesn't achieve the goal. It doesn't because it says the ministers can still do what they want to do under this particular act. If we take, for example, the *Apprenticeship and Certification Act* which is under Schedule C, under the *Apprenticeship and Certification Act*, under section 5 it reads, "The Lieutenant-Governor in Council" – which is Cabinet – "shall appoint a board known as the Provincial Apprenticeship and Certification Board which shall be composed of (a) a chairperson and, in equal representation, (i) 2 or more persons representative of employers, (ii) 2 or more persons representative of employees, and (iii) 2 or more persons not included in the groups named in subparagraphs (i) and (ii) and (b) the director or his or her designate."

It says Cabinet can appoint those. So what this section here says is that no matter what this legislation says, "... the requirement to consider a recommendation under section 4 shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister"

What it says is this is paramount. Yes, it's a nice bill. It's a nice act. It's a nice thought, but what the minister still has the right or Cabinet still has the right to do is outlined in the particular acts. There are several of them. I told you there are 74 entities listed under Schedule C.

Let's take another one for example. I'll just pull out the *Architects Act, 2008*. I looked up some of these. Mr. Speaker, I had asked in the briefing if I had to look up all of these myself or if officials could provide us with a list of what all of these sections meant, because it will say here *Forestry Act*, section 58, *Geographical Names Board Act*, section 3, *Government Money Purchase Pension Plan Act*, section 12.1. So I had asked: Do we have to go look all of these up ourselves, individually, as Members in the House or could officials provide us with those? They had offered to. Unfortunately, we never got them because I was looking forward to having a look at what some of these were about.

There are over 100 altogether. There are 74 under Schedule C and there's another 32, I counted, under the Schedule that are actually going to the Independent Appointments Commission. So there are over 100. I really don't want to have to look up all of them that have legislation about them.

The *Architects Act, 2008*, section 6(1) says: "The minister shall appoint as members of the board 2 persons who are not architects who are suitable to represent the public interest."

That's one example of all of these. It says the minister, and I draw attention back again to section 23 of the bill that says: "... the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister."

Again, another example here, this one is: the minister shall appoint as members. It still remains entirely up to the minister to make those appointments at his discretion and his wish, because that's what the bill says. That's what the act says. If passed like it is, that's what the legislation will say. The legislation will say the minister can do that. That's a problem, Mr. Speaker, for us on this side of the House, because it simply indicates to us or shows that the bill will not achieve its desired effect, which as I've said a couple of times, and I say again, we agree on the merit of the idea of the bill.

I want to back up to the front of the bill for a minute because I kind of started at the back, which I wanted to talk about the Schedules, which are usually located in the back of bills and legislation. I want to go back to the front of the bill. Note its very title: "This Act may be cited as the *Independent Appointments Commission Act*."

Mr. Speaker, when you think about everything I just said, what's really ironic through all of this is the Independent Appointments Commission will have no authority to independently appoint. They will have no authority to make any appointments. We're going to have an Independent Appointments Commission that will not have authority to make any independent appointments – or any appointments, for that matter.

All the bill will do is create a new commission, a new level of bureaucracy in government under LGIC, under the Lieutenant Governor in Council, under Cabinet, under ministers for ministers' use. It will create a new level of bureaucracy to go through a process to send names off that ministers' can decide on, because that's what the legislation says. It says it doesn't alter or fetter a minister's ability to make appointments as each piece of legislation lays out. I've got more that I can share with you.

So when you look at the bill, section 2 in an act is always definitions. Then you get to the purpose: "require a merit-based process for appointments." Mr. Speaker, I don't believe it does that either. It does a merit-based process – for the Public Service Commission to do a merit-based process to make suggestions to Cabinet or to a minister, to make suggestions to them, however, the minister or Cabinet don't have to take the suggestions. It kind of does away with the merit-based process for appointment under the purpose of the act. It's hard to see how the act is actually going to achieve its purpose.

Then it says: "establish an independent commission to provide recommendations for appointments in accordance with that process." The key word there, make recommendations. So it probably should be called the independent recommendations for appointments commission or words to that effect. It probably should be called the recommendations commission not the Appointments Commission because Lieutenant Governor in Council, which is Cabinet or a minister, will still have that authority.

Section 4 says, which I showed you is also contained in the bill elsewhere, that: "The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission." Again, they only have to consider them. They don't have to accept them. They don't have to abide by them. They don't have to follow them. They don't have to live

with them. For whatever reason they want, they don't have to follow them.

It's interesting that we heard – I sat at the briefing when the Premier and the ministers did a briefing with the media, I think last week or the week before maybe. I think it was a week or so ago. I'm looking over at the minister. She's kind of rolling her eyebrows like she's trying to remember when it was. The Premier was asked – I know you're listening and you're thinking; I see that. I thank you for listening, by the way.

The Premier was asked: what happens if you don't follow it or what happens when you select one person? Well, we know who the other two people were. The Premier said, no, we can't do that because of privacy. Now, I get that. I understand that. That if I was a person applying for a job or a position, would I apply knowing that if I don't get it my name could be out there as a failed candidate? I probably wouldn't want that.

Bear in mind that will only happen for 32 entities because the other 74 don't even go to the Independent Appointments Commission. The 32 entities where the Independent Appointments Commission is going to put forward three names for consideration – not recommend one, just going to submit three names – there potentially could be one successful candidate and two failed candidates. I'm sure nobody would want to be identified as a failed candidate.

Not only that, Mr. Speaker, my reading of the bill and the explanation received in the briefing, is they don't have to pick any one of the three. You don't have to pick any one of the three recommendations from the Independent Appointments Commission. They could actually pick their own.

The Premier expressed concern about having people identified who weren't successful, and that creates a problem because the people of the province will be skeptical. They'll be cynical about did they pick someone for merit-based or they did they pick the person they wanted? Did they pick the person they wanted because of who they are, because they're politically involved, because they're their buddy, friend, they have some history with them or whatever the case may be? They support them and all those types of things that people look at when they say, oh, you're looking after your buddy. It opens that up again.

This bill, as it is now, will allow that to happen. It will create question marks. It will cause issues, I'm sure, for Members opposite. Once they go through – and I remember, I think it was the Minister of Finance who talked about the numbers of people who actually can get appointed through these agencies and boards. It was a huge number. I forget what the number was, but it was a huge number.

I'm sure along the way of making all those appointments, someone is going to go, hang on now, I never got appointed, but he appointed his buddy or she appointed her buddy. How come I never got appointed? Is it because I didn't support them in the election, or because I'm not a supporter of their party, or because I'm not old friends with them or whatever the case may be? That's not fair to anybody, especially when the appointments may be merit-based. It's going to raise a question mark in the public, and that's what part of this was supposed to eliminate and it's not doing that.

Now, go over to section 6, Mr. Speaker. Section 6(1) is: "The Independent Appointments Commission is established." This is Part II now of the bill, and 6(2) says: "The commission is an independent, non-partisan body whose mandate is to provide non-binding recommendations respecting

appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process."

Well, Mr. Speaker, I think that section there, 6(2), kind of sums up what I just talked about for the last 20 minutes or so. I think that whole section just kind of sums up, if you think about what's contained in it. Let's just break it down. It's a non-partisan body – I'm going to come back to that. Its mandate is to provide non-binding recommendations. It's there, clear, again. Very early in the bill, section 6, it very clearly articulated again that these recommendations are not binding on them.

If I was a minister I'd be saying, don't do this because this is going to cause me more trouble than it's worth. It's going to cause me more trouble than solve problems because when I make an appointment – I go, do you know what? I can't appoint this person for some reason and I don't believe this person is right for it. I don't believe this person and I pick someone else, you're going to be accused of political partisanship and political appointments.

If you get a group of people under the other process sent over to you and you have to pick 10 out of a group of 40, and there's two or three you don't pick who are very qualified – for some reason you don't pick them or they believe they're qualified, or one of those two people say, I'm very qualified at this. I should be chosen for this role. I have all the qualifications. I would be a good person to do this. If for some reason they don't get selected, the first thing that's going to be suggested is, that's partisan, that's partisanship, that's politics again, get involved in the process and their politics is right back in the decision-making process which is contrary to what the intention of this bill was all about.

Then it goes on to say – we're getting to some good points here because I go back now to section 6(2) for a second, "The commission is an independent, non-partisan body" Let's deal with that for a few minutes. "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly."

It says five members appointed by the Lieutenant Governor in Council on a resolution of the House of Assembly. What that means is the Lieutenant Governor in Council – Cabinet – is going to select five people to become the commission. Now, I know this is done the first time around, but that's what is going to happen. They're going to select the first five members of an independent, non-partisan body.

We don't know how that's going to happen, Mr. Speaker. We don't know how Cabinet is going to do that. We don't know how the Lieutenant Governor in Council intends to do that, but they're just going to pick five members appointed by the Lieutenant Governor in Council on a resolution of the House of Assembly. What that means is they'll pick five and they bring it here to the House, for the House to vote on.

Now, we know government has the majority of the votes in the House. I would think the Whip will have their work done for that day and make sure that everyone's in line with the Premier's five who have been selected or the Cabinet's five who have been selected, and they'll vote for it.

I'm not suggesting there's going to be anything wrong with the five because we don't know. The problem is it raises that question again as to the merit. Why are these people appointed? How are they selected? We won't know who wasn't selected. We won't know who was turned away or not selected. We won't know that process because it's not included in the bill. It's still left to be done under the secrecy of Cabinet. It's still left to be done under closed doors of a

Cabinet meeting and decided by Cabinet in a closed-door manner. That's going to create a problem I'm sure in the very beginning.

Then it says, "The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson." So very clearly, Cabinet, made up of Members of the governing party, will decide who the chairperson is going to be. Simply put, they will decide. So it's not an independent process. It's not merit based. It's the Cabinet gets to pick who they want to be the chairperson.

"The members of the commission may elect from among their number one person as vice-chairperson" So the rest of them now will get together – a lot of municipal councils do this. A lot of municipal councils will have a separate ballot for mayor. A lot of them do these days, but when council is elected – the mayor and councilors are elected – they have a private meeting. First of all, they get together and have a private meeting. They are usually going: What have I signed up for? What am I going to do here? How's this approached?

The first order of business that a council does at a private meeting, after they've been elected as council, is they elect a deputy mayor, which is very similar as a vice-chair. They elect a deputy mayor amongst themselves. This is a process that works with many councils. I think it's a good process, and then they decide who that vice-chair is going to be. So that's allowed under this particular piece of legislation.

The Premier talked about the significant amount of work that commissioners, which are the five commissioners, members appointed to be commissioners, are going to have an enormous amount of work to do because there's hundreds and hundreds and hundreds of appointments. I think it was somewhere 250 in a given year was estimated. Can anyone confirm that? I think it was about 250 appointments in a year is what they talked about the commission would be doing.

That's what the commission will be doing with those 35 entities because the Independent Appointments Commission has nothing to do with the other 74. They'll have a couple of hundred a year to do, and the commissioners are not going to be remunerated.

I know the Premier said in the briefing that he did with the media – again, I sat in the room and I listened to it. They said: Well, what happens if they don't pick what you recommended? He suggested maybe they'd resign. Now, I don't know if that's a good process. We certainly don't want that. To say well, congratulations, we've selected you as a commissioner, you have a very important role to do and if you don't like what we do with your recommendations, you can quit. I don't think that's essentially what he wanted to do. He was asked what the recourse is if they don't like what you're doing, and he said they could resign.

They're not going to be paid anyway; they're not being remunerated. They will be paid for expenses and so on; they may travel from time to time or hold a meeting somewhere else in the province, or may have to go somewhere for an interview or work like that to do. There may be a board or a commission that's relevant to a certain geographic area, like Marble Mountain, for example. I'm sure that if Marble Mountain commission, which I think comes under the – yes, Marble Mountain does come under the IAC, the Independent Appointments Commission. Then I'm sure they would go to the West Coast to conduct their interviews or assessments of what skills they need, what's on the board today, what's lacking, what type of skills would be appropriate and so on.

So I would imagine there would be some travel associated with this but, no doubt, it will be a lot of work. They are going to create their own rules of procedure. "A commissioner shall be appointed for a term of 3 years, and may be reappointed for one additional 3 year term, to be served consecutively."

Mr. Speaker, the problem here with the commission itself and the establishment of the commission, for the first three years we're going to have a commission appointed by the government, selected by the government, picked by the government to act as commissioners. Again, I can't be any more sincere than what I'm saying; I am sure Members opposite do not want to wake up week after week seeing *The Telegram* or the morning news and someone disgruntled because they felt that there was partisanship in an appointment because this legislation allowed for it to happen.

"The commission shall provide recommendations respecting appointments in accordance with the merit-based process." There it is again in a different section of the bill. It's here again in section 9. It is there in section 6, section 9 and it's again over here in the section that deals with amendments to the *Public Service Commission Act*. So it's very clearly laid out, in case anybody missed it, that they are to provide recommendations only. It is only recommendations.

That's a problem, Mr. Speaker. It's a problem for us, but it should also be a problem for Members opposite who, at some point in time, are going to have to be faced with the responsibility to make a decision to a board, they don't like the recommendations, if it's the ones under the Schedule of the IAC, or if they don't like the pool or the recommendations from the pool that were given to them by the Public Service Commission and they want to go outside of that, which no doubt is going to happen. But what this bill does, it's going to set up a problem for the minister or for Cabinet who are doing that process.

I have a few more minutes left, Mr. Speaker, and I'm going to clue up. To be clear, what's really ironic about this is under the bill, An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments – and even under Schedule C, that's the 74 entities whereby it doesn't even go to the Independent Appointments Commission. There are 74 entities. So An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments, 74 entities don't even go there.

No problem there. It appears from the reading of the bill, the full intention is for the Public Service Commission to establish a merit-based process. The bill lays out how that would happen, and how that would be developed. The problem that arises is once you've gone through the merit-based process, what happens then? Because under the 74 entities in Schedule C what will happen is they will do a grouping. They'll say here are the people we recommend. It doesn't say if there are 10 vacancies, they're going to recommend 10. It doesn't say if there are two vacancies, they'll recommend two. It just says they're going to make recommendations.

In the other section that does go to the IAC, they're going to recommend three. But in these boards, in these entities, these statutory appointments that are listed in the bill, about 74 of them, then it doesn't say that. It says we're going to create a pool. We're going to create a pool of people. We'll make recommendations. It doesn't say how many. You could have 100 people apply, you could have 50 people recommended, you may only have five appointments so we

don't know how that's going to work and here are the recommendations.

My point is that it's still left to the discretion and the ability of Cabinet or the minister to make that decision. The pool is done on a merit-based approach, but once it gets to the minister or Cabinet, who's going to know if it's done on a merit-based decision, because these decisions are recommendations. They can't make appointments. They are clearly recommendations. The bill, as I've laid out, clearly, clearly articulates in a number of places that the minister does not have to accept the recommendations.

Mr. Speaker, that's the problem with this bill. It's non-binding. The minister and the Cabinet do not have to accept it. They probably have good intentions to do so, but it speaks so loudly to the fact they don't have to abide by those recommendations. It's here over and over again in the bill, how it's non-binding and how it's only a recommendation, and clearly articulates how it in no way affects, alters or fetters the discretion of the Lieutenant Governor or the minister to make appointments under the individual piece of legislation.

So you've got the Fish Processing Licensing Board, as an example, which is one that's included here. The minister still has the right to make that appointment. Then, there's a level of issue – and I understand the quandary that government finds itself in. What do you do when you've gone outside of that process? How do you know if there's three people that are shortlisted and neither one of them are chosen and someone else was chosen? How do you know the people weren't selected? How do you know the person that was selected outside of those three recommended is a better candidate than the three that were put forward by recommendation? Well, you don't know.

The Premier made a point of how do you do that? How do you expose someone publicly to the fact that you've been rejected as a candidate? You've been a finalist, but you weren't successful. That's not good. I was there myself, actually, one time. Many years ago I was a finalist, and I wasn't successful, but the three finalists stood on the stage and I wasn't picked. It's no different if you enter – and it wasn't a competition I entered. I was nominated and asked to go and enticed to go and so on.

It's the same thing when someone is in a competition and they're standing on a stage and they're shortlisted. They're down to three or four and they don't get picked. Well, that's a hard place to be. Here, it's your full credibility and professional ability that's on the line. It's your full – why I am the good person to be selected here is on the line, and you may not get picked.

I respect where the Premier was on this by saying that's not fair to do that to somebody. If you do it to someone, you're probably not going to get the best candidates. Fair enough, that's a good answer. That's a good answer and it's a good rationale for not disclosing it. However, it doesn't solve the problem of leaving the door open for a minister to make their own choice.

That's the problem we have here, Mr. Speaker. It's an enormous problem for us. I'm not sure how it can be rectified, only to say – and we've said earlier that our intention when we get to committee is to propose amendments to try and clear up some of these issues. We agree with the merit of the bill. We agree with the idea of trying to take politics out of appointments to volunteer boards and agencies. They do huge work in our province; huge work and have great value in communities and parts of

our province, all over Newfoundland and Labrador. They have great value for benefits to our youngest citizens, to our oldest citizens, to everything from rural councils, rural secretariats to – I mentioned Marble Mountain earlier.

There are so many here: *Crop Insurance Act*; *Credit Union Act*. There are appointments here under the criminal code where the province has to appoint someone as responsible for section 672 of the Criminal Code. There is the *Denturist Act* and how you have oversight on denturists and you have people on their board and also on their discipline boards. Ministers have authority to appoint people to those boards that are not necessarily affiliated with the particular profession. We see there are many cases of that.

Mr. Speaker, the *Health Research Ethics Authority Act*, *Government Purchasing Agency Act*, *Geographical Names Board Act*, I mentioned that one earlier, *Fish Processing Licensing Board Act*, *Financial Services Appeal Board Act*.

Mr. Speaker, there are so many of these here which will not be appointed independently. This legislation will not allow for people to be appointed independently; therefore, I believe that when we come to second reading we're going to propose a series – we have some amendments we're going to suggest to the House. We're going to suggest to the House amendments, based on what I've said here today and what I've stood on here today, that we agree with the merit and the intention of the bill. We don't believe the bill reaches the desired effect.

We don't believe it reaches the impact that the government was intending to reach on the bill. So we're going to provide – we said we would come to the House here and we wanted to co-operate with government. We want what's better for the citizens of the province as well. We all got elected here for the benefit and the betterment of Newfoundland and Labrador and Newfoundlanders and Labradorians, and that's what we're here to do. So we're going to propose those amendments. We'll do that when we get to committee, and we look forward to having I'm sure what will be a discussion.

Quite often what happens in committee is we'll propose an amendment. Members opposite will get up and say why it will or will not work, or why there's a problem with that proposed amendment. At least I hope they do. They're not obligated to do that. They just may sit in their chairs and not respond, but we certainly hope they do. We hope they do respond to our amendments and our recommendations. Hopefully we can make some improvements to the bill so it's going to benefit how this whole process works. Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

SOME HON. MEMBERS: Hear, hear!

MS. C. BENNETT: Thank you, Mr. Speaker. It's an honour to stand in the House today and participate in this debate, particularly since the Public Service Commission, of which I'm the Minister Responsible for, is going to have such an integral part of the operational role to be able to operationalize this legislation and provide the names to the Independent Appointments Commission and also do what the Public Service Commission is going to do for the tier-two boards.

I would remind Members in this House that in our province agencies, boards and commissions make up approximately 43 per cent of total government expenditures and 75 per cent of

total public sector employment. For that reason, it's really important that we have directors who can bring skill sets to the boards, agencies and commissions that encourage and enable those organizations to have the highest level of performance.

Earlier today, listening to the debate, the Member opposite had the chance to speak around the gender lens. I certainly want to address that, particularly in the context of my responsibilities for the Status of Women.

Our government is striving for equality and diversity and we have made it clear that we take gender representation very seriously. In all areas we encourage women to actively participate and seek leadership roles. That will be no different in this situation. This is the same for positions which will be considered by the Independent Appointments Commission. Women throughout the province are encouraged to submit their name for consideration, and all Newfoundlanders and Labradorians are encouraged to take advantage of the opportunities that are before them.

Our government's goal is to make this process as open and inclusive as possible. Through this process we will encourage diversity and regional representation. We would like to see the agencies, boards and commissions be diverse and reflective of the communities throughout our province. However, it is ultimately dependent on the amount of interest received from the open call for applications. To assist them in their pursuit of new opportunities, we will engage the Women's Policy Office as well as community and advocacy groups.

I can assure the Members of this House that I will be doing my part to make sure that the women of Newfoundland and Labrador are aware of the opportunities that are available to them through the Independent Appointments Commission.

SOME HON. MEMBERS: Hear, hear!

MS. C. BENNETT: I would ask the Member opposite to join me in that. It is very important for us, and for all women in this House, to ensure we have many applications for the Public Service Commission and, ultimately, the Independent Appointments Commission to consider. I look forward to working with my female colleagues in the House to make sure that happens.

Mr. Speaker, in addition to the gender discussion the Member opposite brought up earlier today, I would like just to remind those listening at home and here in the House that in establishing the Independent Appointments Commission – as has been discussed all afternoon – our desire is to take the politics out of government appointments. We believe the appointments in our agencies, boards and commissions should be merit based and not politically motivated as in the past.

I'd certainly remind the Members opposite when they have challenged and used the term recommendations, my understanding, from the research I've done, is that as a Minister of the Crown I have a fiduciary responsibility, legislative responsibility, to a number of these organizations to ensure they are fully staffed and there are correct directors and CEOs in place. And at the end of the day, the responsibility and accountability for ensuring that something happens, happens with the minister.

It's unfortunate we've had situations in our past in our province where we've had boards, agencies and commissions that have gone with positions not filled. I think that is something from my perspective, from the operations side, I

certainly hope the work we do and the Public Service Commission in supporting the Independent Appointments Commission will help improve the rate of compliance with legislation and make sure we have people in the right place for the right reasons with the right skills.

It's important the performance of these agencies, boards and commissions is reflective of the huge responsibility we give them as Members of this House. We want to make sure they have the skills matrix, as the Member who spoke earlier today referenced. It's important we have a diverse set of skills. It's important our health care authorities and our Crown corporations have a variety of skills, including accounting and marketing and communications and operations, not the least of which would also include legal, et cetera.

Many would argue that in addition to taking the politics out of it, this process will allow us to make sure we have the skills we need on these boards to make sure the performance of the organization continues to increase.

I do want to echo what many Members of this House have said. Those people that volunteer to sit on a government agency, board or commission, or those people that take time from their families and, for a small stipend, participate in the agencies, boards and commissions around the province are to be commended. It's a huge amount of work that we ask people of the province to participate through these agencies, boards and commissions. It would be, as has been reflected here in this House this afternoon, very wise and appropriate for us, as a House, maybe just to take a minute and congratulate and thank all those people who have done the work on these agencies, boards and commission in the past and also the ones that are going to do it in the future.

SOME HON. MEMBERS: Hear, hear!

MS. C. BENNETT: As has been discussed as part of this debate, there were initially questions about will the Independent Appointments Commission release the three names of the candidates that would be recommended for certain positions. No surprise, I think what I'm hearing from most of the Members in the House is that there is certainly an understanding from a creditability perspective, from a professional creditability perspective, that if an individual puts their name forward and they're not selected for a particular position, but we may want them to continue to pursue maybe another position, that we'd want to make sure that we respect their privacy.

I can't imagine any Member in this House not supporting that. I think that's something that we certainly heard in the debate from both sides in the Chamber today, that everybody understands the need for maintaining people's professional creditability when they step forward to put their names forward for these positions.

Mr. Speaker, the Public Service Commission, I can assure you, is very eager to begin the work that will underpin the legislation. I look forward as the minister to also working with the regulations, in creating the regulations that ensure the intent of the legislation that we hope to pass in this House is reflected in the regulations and reflected in the operations work that the Public Service Commission does. I have every

confidence that based on the briefings that I had with the staff there that they're very eager to support what is our government's legacy legislation.

I would like to take a moment, before I finish, to say a huge thank you to our Premier for his clarity of thought on this Independent Appointments Commission. He has been championing this for several years. It's one of the reasons why many of us were very happy to go out and knock on doors on his behalf and on behalf of our party. I'm very proud to stand here as one of the ministers that is going to have a role to play in executing his intent in the legislation.

I'd certainly like to thank him for the great work that he has done in spearheading this legislation into the House in this session. I'm very proud and hope that many men, women, Aboriginal people from all over Newfoundland and Labrador get a chance to participate in an opportunity through their volunteer or small stipend work through an agency, board and commission that will help us get the best value out of all of the work that these agencies, boards and commissions will do.

Mr. Speaker, I expect that over the coming days Members opposite will continue to ask questions. I think the consensus, though, that I'm hearing over the course of the debate this afternoon is that we all believe, very clearly, that it's important for us to have the best people we can have working in these leadership roles, these director positions, through the agencies, boards and commissions. I will look forward to supporting the work of this House in making sure this legislation is passed as expeditiously as we can make it happen. Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please! Is it the pleasure of the House that Bill 1 be now read a second time?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Those against?

Carried.

CLERK: A bill, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments. (Bill 1)

MR. SPEAKER: Bill 1 has now been read a second time.

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

MR. A. PARSONS: Tomorrow.

MR. SPEAKER: Tomorrow.

On motion, a bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments," read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill 1)

Debate at Committee Stage (Bill 1 of 2016)¹⁵

Commenced and Concluded on May 16, 2016¹⁶

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the House resolve itself into a Committee of the Whole to consider Bill 1.

MR. SPEAKER: It is moved and seconded that the House resolve itself into a Committee of the Whole and that I do now leave the Chair to debate Bill 1.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Carried.

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

Committee of the Whole

CHAIR (Dempster): Order, please!

We are now considering Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments.

A bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments." (Bill 1)

CLERK: Clause 1.

CHAIR: Shall clause 1 carry?

The hon. the Member for Conception Bay South.

SOME HON. MEMBERS: Hear, hear!

MR. PETTEN: Thank you, Madam Chair.

As for this bill, it's been a while now since we had a briefing on it, so I guess I first should thank the people who provided us with the briefing.

This act, and the proposed Independent Appointments Commission, when in fact the bill only serves to create a commission which will recommend appointments. So it's not making appointments. It's going to give a list that will be considered further up the line.

When you call something an Appointments Commission, the words appointments and commission, you'd think that the decision would be more substantive. They're actually just recommending for appointments to be made eventually by Cabinet. They will be made by the Lieutenant Governor in Council, which is Cabinet, and which in turn is politicians.

If the Liberal government is serious about taking the politics out of appointments – and it's something that was campaigned heavily on. I remember hearing the

commitment. It was kind of interesting when I heard the Premier during the campaign state how they were going to do that. I'm always open to new ideas. When I heard that being said – I wasn't a sitting Member in the last Legislature – out on the campaign trail I used to think it sounded great.

You take the politics out of appointments, but as you get digging into the bill you start to realize that in theory – I guess it's a bit of window dressing. It looks like you may be taking the politics out of appointments but when you dig down, the way the bill is presented to us anyway, it's very questionable how much politics is actually going to come out of these appointments, Madam Chair.

As I said, if this was something they promised to do, then wouldn't they take the politicians out of the appointment process altogether? Change the legislation; change the regulations to show that the appointments were made by a commission, not just recommended by a commission.

You have a commission, and if you have to set up another Appointments Commission, at least that would be more rigorous, I guess. They need to have their own process.

What I like to refer to sometimes when I have thought about this Appointments Commission, any people who are familiar who have been in the public service know that you go to the Public Service Commission, you apply for a position, you're narrowed down – you apply I guess and they do the search down. They identify X number of people to do interviews. There's a matrix; there is an actual scoring system. So if people have an issue, everyone is entitled to go back and say: Why didn't I score higher? Why did I not get the position? Where did I land?

It is incumbent upon the Public Service Commission to meet with those people and go over where their weakness were, tell them what they scored, tell them what they could improve upon. It's more of an open process. Even when the decisions come up the line – and I've been seeing that before; you have your recommended candidates but they are scored and you could have a bona fide reason not to pick number one.

There are times that has happened, but usually there is a process in place and you have justify why you are not picking the first person, if you're going through a matrix as the Public Service Commission does follow. If you're going to just take an Appointments Commission, you're going to submit a batch of names, whoever wants to apply and you're just going to recommend some people from that to send it up the line to Cabinet, again, to me, it doesn't sound like politics has been taken out of appointments because we all know Cabinet ultimately makes decisions, the way it stands today.

Governments are elected, so if you want to call politics as politics – but there is no doubt; anything that goes to the Cabinet room, politics does play a role. If you're going to have something that's independent, it should be independent of Cabinet and independent of government.

Before I move on, I hear Members opposite will get up, and I heard it today – again, I distance myself from that because I didn't appoint anyone in my previous life, so I can pretty well talk freely on that one. It's not what this former government

¹⁵ Note again that Bill 1 of 2016 is linked here: <https://assembly.nl.ca/HouseBusiness/Bills/ga48session1/bill1601.htm>

¹⁶ Link: <https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-16.htm>

done; it's not the process they used. It's thrown back as we're going to do it better.

I get that to a certain degree, Madam Chair, but still, it is what you promised as a government. This government came up with this promise, our current Premier and all elected Members. This wasn't something that the former government done; this is something that the new government committed to doing. I think that's a big difference because I suppose we learn – back in 2003 when the former government was there, the new government took over and done things differently and you hear that banter back and forth; but, on this case here, yes the former government and every government prior to this current government, that's the way these appointments are done.

Now you've committed to changing the process, which is really a big moment because this is Bill 1 to a new government. Bill 1 is usually a watershed. It's your bill that you stand by.

During the election, like I just said earlier, I commended the current Premier of the day for coming out and bringing that in. I really did honestly say it. I'm not saying it just for shallow words. I thought it was neat because personally that was something that – did you always pick the best person for some of those positions? On a total just personal situation, I used to look sometimes and wonder that a lot myself. So I commended the Premier for bringing that forward. I thought it was pretty innovative.

Again, though, it makes you wonder is this legislation for the sake of fulfilling an election promise. I was a bit surprised when we went in and did that debriefing on it. The Members and government officials did a good job, but there were a lot of blanks not filled in. You start realizing, as my colleague for Mount Pearl North earlier tabled with the possible amendments, there were a lot of issues. This bill sounds great on paper, but when you start looking at it, it does require a lot of adjustments, I think, for this to be truly an Independent Appointments Commission.

As I said, the legislation is for the sake of fulfilling an election promise, especially as it does nothing to alter who makes the appointment to alter who makes the ultimate decision. As I just said, that decision will rest Cabinet. Is this commission nothing more than window dressing? That remains to be seen. Madam Chair, we feel on this side of the House that this bill has a lot of weaknesses.

Government has been seen to be the government of inaction so far. As it was stated last week by another Member on this side of the House, they finally kept their promise on one of the bills they passed. It was a bit of tongue-in-cheek, but a lot of people in the public questioned the same thing. When are we going to see a lot of these promises that government has been campaigning on, boasting on, yet they haven't delivered on.

This legislation and the commission it will create have no teeth, no way to ensure the recommendations are followed. It is inactive legislation, much like the inactive government. The Cabinet has traditionally retained the power to make appointments to key position. As I said, a Member opposite said that earlier. That's the way it's been done forever, back to when we became a part of Canada. This has always gone through Cabinet.

Because the First Minister and other Cabinets – a collective response for leading the provincial government and setting the direction of policy. They're not accountable to the people of the House during elections. Again, it comes back to every

Cabinet needs to ensure that all those in leadership positions, at agencies, commissions, Crown corporations throughout the government are not just qualified, skilled, experienced or proven and trustworthy, but also capable of working collaboratively with government and not cross purposes. Sharing the vision and objectives of the government is part of being qualified; a team divided against itself could not stand.

Yes, there are roles where you want antagonists, people who want to be independent and hold government up to scrutiny of criticism. For example, the Auditor General, the Child and Youth Advocate, the Citizens' Representative and soon to be the new seniors' advocate, are in such roles. We'd also like to see a veterans' advocate, but I guess you can't have it all.

That's why they're appointed by the House. If you're appointed by the House, it's intended to be taking Cabinet, taking the politics of out of it. You're appointed by the House, and those positions are appointed by the House for that reason, because they're not supposed to be on government's side. They're supposed to be speaking for the general public, the people.

AN HON. MEMBER: (Inaudible).

CHAIR: Order, please!

MR. PETTEN: They're expected to be critical of government, but agencies and commissions and Crown corporations –

AN HON. MEMBER: (Inaudible).

CHAIR: Order, please!

MR. PETTEN: Thank you, Madam Chair.

Agencies and commissions and Crown corporations are entities that do work of government. They are part of a team running this province. They are expected to work collaboratively and smoothly with the administration to implement the administration of policies to achieve its goals in the context of sound, corporate management.

Obviously, Madam Chair, it's not in any Cabinet's interest to appoint political friends who are not qualified to do the job because the work will not get done effectively and Cabinet will bear the blame and the shame.

There are many examples where Liberal governments and PC governments have appointed individuals who have worked very closely with the administration in the past and that would be considered political friends. Over the years, both governments – when it's their turn in power – have appointed people and they've gotten their share of criticism for it. Some of those appointments have not been bad appointments.

You can have your banter, but if you want to truly make this independent and truly take the politics out of everything, do that. Put this Appointments Commission – remove it so Cabinet doesn't decide. Put it in the hands of a truly independent commission to do independent appointments.

I know Members opposite always like to refer to the past or what's happening behind the scenes, but that's not where we are today. We're debating Bill 1, which I want to remind the government again, it is their watershed bill. It is their first bill they're bringing in as a new government.

Ironically, it was brought in and we were – back in March it seemed like it was full steam ahead and then it stopped. There's no doubt, when the amendments came out it was just put on the Order Paper and it stayed there until now. So,

obviously, it's not a piece of legislation that probably government wants or proud of, as they boasted in the beginning because maybe they too realize there's probably a lot of work to be done on this bill.

Again, as the Opposition over here, we're not saying it's a horrible thing. We're saying this bill needs to be tightened up more. It sounds nice on paper to have an Independent Appointments Commission but it means nothing on paper unless it's truly independent. Right now, the public will say, you'll come out and you'll pass a bill and you'll make it all sound great. When it comes to practice, we all know where the end result happens. It happens in the Cabinet room.

Any decision coming out of the Cabinet room, if they're not political – I can't see them not being political, but if they're done by an Independent Appointments Commission and then they are brought into the House to be voted on, that to me is an independent process. It's one we should all embrace because it's your Bill 1, it's your watershed bill. It's one that you should be moving in the direction of doing that instead – again, it's fine to get up here, and we'll hear it. No doubt, we'll hear lots of that, what you did or what you did in the past and all this. That's not where we are.

We're not actually opposed to this legislation. We're just opposed to the legislation as it stands now and the way it's written. We have issues with – as you say, we have amendments coming. Those amendments are meant to address the concerns we have.

The bill as it stands right now is one we don't support, but the legislation, the idea of that legislation is one we're open to discussing. At the end of the day, we'd love to see an Independent Appointments Commission that is truly independent and will do the work that it's required to do and no political interference.

Thank you, Madam Chair.

SOME HON. MEMBERS: Hear, hear!

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

MS. MICHAEL: Thank you.

Just giving notice that we will be doing amendments to subclause 6(3) and subclause 9(1).

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

MR. KENT: Thank you, Madam Chair.

Just following suit, the Leader of the New Democratic Party has just indicated which clauses that she intends to introduce amendments for. Out of respect for the House process and hopefully to allow things to move smoothly this afternoon at the Table, I'll indicate as well some of the clauses that we intend to propose amendments for: clause 2(c), clause 6(3) – I'm sorry, the Leader of the NDP indicated 6(3), so we may bring forward an additional amendment to 6(3) as well – 6(4), 6(7), 7(4) 7(6) –

AN HON. MEMBER: (Inaudible).

MR. HUTCHINGS: We gave a copy –

MR. KENT: Yes, you have this list that I'm reading from as well. I know the Table Officers do as well.

AN HON. MEMBER: (Inaudible).

MS. MICHAEL: That's an amendment.

MR. KENT: It is still an amendment, yes.

It is 9(2)(b); 10(2); 11(2); 13(1) – as you can see, I've been writing all weekend, Madam Chair – 13(3) and (4); 13(5); 15(1) and 16 –

AN HON. MEMBER: (Inaudible.)

MR. KENT: A Member opposite just suggested we write a new bill. That would make a lot more sense, Madam Chair, than what we're going to do here this afternoon.

There are a couple of amendments to 19(4), which affect the *Public Service Commission Act* 21(3) and 21(4), and also 19(5) which relates to Schedule C of *Public Service Commission Act*; and we will also reserve the right to bring in amendments to the Schedule and, perhaps, the long title, depending on how debate unfolds today and perhaps in subsequent days in this House.

So those are the amendments we intend to introduce. I won't prolong discussion on clause 1, and I look forward to working with the other parties in the House as we proceed through the Committee stage of debate.

Thank you.

SOME HON. MEMBERS: Hear, hear!

CHAIR: The hon. the Government House Leader.

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

I'll speak to clause 1 just briefly as we move on and I will say to the Members opposite, I appreciate you submitting your amendments in advance. I can say that we are looking at this now because we do want the best piece of legislation possible.

I'm going to respond to the Member for CBS's comments first of all. I think what he said is that he disagrees with this bill and won't be supporting this bill. That's how I took it. I took it so that the Official Opposition disagrees with the concept of having a more rigorous, merit-based process to the appointment of individuals to positions. If that's the case, if I'm hearing that wrong, then I find that very, very unfortunate and I'll let the Members opposite discuss that.

I don't want to belabour the point because we have had an opportunity. We had a press conference on this, there were briefings on and we had second reading on it. But I will address one point just so the Member realizes. He said well, we're in here now talking about this and it was full steam ahead at first, but he has to realize that actually I think we discussed this just during the first couple of weeks that this House was in session. Then I think we went on the traditional Easter Break where there's nothing discussed in this House of Assembly because the House is not open. Since that time, again, I think we all realize what we've been discussing, which is the budget. So it's not a case of not wanting to discuss something; it's a case of there are certain things you have to do at a time certain time.

We're extremely proud of this piece of legislation. I think somebody in the Official Opposition's staff office might be out tweeting about it and saying that I said it was a flawed bill. Just in case, if they're going to quote me, just get it accurate. What I said was if it's flawed, it's still 10 times better than what the previous government had, which was nothing. I say

to the staffers out there: If you're going to tweet, get it accurate. If you don't want to get it accurate, I can't help you there. You do what you got to do. What I've said – and thankfully everything that we say is recorded in Hansard.

To go back to the general subject of what the Member is discussing, he's saying this is something we campaigned on. It's an independent process, but we don't think they've done enough. They've haven't gotten the politics all out of this; therefore, I can't support it.

As we've discussed on a number of occasions, I'm willing to speak to this bill and answer the different clauses, whether they want to amend them or not. We'll certainly take our time. We have all today, tonight, tomorrow, tomorrow night and June, that's not a problem. What I will say, though, is that I'm looking forward to getting into the substantive side. I'm not going to spend a lot of time talking about it is not good enough.

The fact is the Member opposite wasn't a part – well, he was a part in the background. The previous government had every opportunity to do something and they chose not to. Their process was find somebody, put them in a position and there was no process.

In this case, we've laid out that the Public Service Commission is there and will do screening of applications, merit-based assessments, gender lens; there's a whole number of screening. Then it goes to an independent board. This group actually won't be appointed unless it's done through this House, a resolution that will be also debated in this House, those individuals, once we ever get to that stage.

I'm looking forward to that because as I just said to the media, we need to move this forward. I think the number I have here, the number when we came in – there are 50 vacancies and 300 expired appointees. That's a significant number for the number of ABCs we have out there, agencies, boards and commissions. So we've come in and normally the previous government – what I would say is that when they wanted something filled, they filled it. How did you select who it was? I have no idea. One could only guess.

What I will say is that we want to get this commission up and running. We think this is a great process. We think that there are checks and balances in place. We think that there are going to be public reporting components. We know that there are going to be public reports done on an annual basis. We know that the IAC itself will go through an IAC process down the road. This is light years ahead of the previous processes used by any government before. We think this is a step in the right direction.

I know the other side is going to oppose certain things. I get that. That, in many cases, is the job, to oppose. I can say I've been there. What I also like to think is that when I was on the other side I prided myself on trying to do what I thought was best, in the legislative sense, of putting forward amendments. So we'll certainly take all the time that is necessary to debate and discuss the amendments that are put forward by both sides, to discuss the pros and cons, why we should or should not do something.

I welcome the fact that the Deputy Opposition House Leader has suggested a huge number here. We'll discuss each of these as we go through. I'm sure they're going to stand up on a number-by-number basis and enter those and we'll discuss each one of these. If it has merit, then maybe we'll discuss putting it in. If it doesn't, then we'll disagree and there it is. At the end of the day, I still think we're going to be at a much, much better place than where we were

previously where it wasn't merit based; it wasn't independent.

The other thing – I just had to point this out before I sit down – is that they've said Cabinet still has a say. As the Member opposite would know, Cabinet has a duty to govern. The failure to act upon that and to abrogate your responsibility would go against the whole purpose of governance in the first place. I know that you want this to go to a select process and I know you still want the opportunity to have that, but that's not how the governance process works. What we're doing is vastly improving on the governance process that existed beforehand.

I look forward to the debate. I look forward to discussing the substantive amendments that have been put forward. I'll sit, at this point, and wait for further commentary.

CHAIR: The hon. the Member for Conception Bay East – Bell Island.

MR. PETTEN: Conception Bay South, Madam Chair.

CHAIR: My apologies.

MR. PETTEN: No problem. Thank you, Madam Chair.

I just want to point out a couple of things that the hon. Government House Leader just pointed out. To clarify, I said we support an Independent Appointments Commission. We don't support what's being presented on this Bill 1.

We do support, with the proper amendments, with the right independence to it – we do support that. So I just want to clarify, our stance on this side of the House is we have no problem with an Independent Appointments Commission as long as it's truly independent. We have amendments put in to try to make that happen. The text of the bill as it stands today, we don't support it. We do, though, support an Independent Appointments Commission, if it's truly independent.

I won't take up all my time, Madam Chair, but I wanted to clarify that. Something else that the hon. Government House Leader just pointed out – it's window dressing; you can say what you want, but it keeps coming back to this side of the House. As I clearly stated, I commended this government, this Premier for bringing in – like I said during the election, I thought it was a decent idea. I started thinking when I saw it first – I think we all kind of said yeah, it's an interesting option. But basically, this is like the legitimizing of secret Cabinet decisions.

Now all of a sudden the Appointments Commission made this, it's going to go to Cabinet, it's going to come to the House – it's a smoke and mirrors game; it makes it seem like this has been done independent, which we know that the way this bill is designed now the Cabinet does not have to take any recommendation from this committee. That's no different than what's ever been in place, Madam Chair.

Before everyone knew, those are the rules of the game forever in a day. Again, it's not about this side of the House. It's not about previous governments; it's about what's here and now today. It's Bill 1, it's their bill. It's one that they campaigned on, that their proud of. Again, I'll just remind everyone. We're not opposed to Bill 1 or an Independent Appointments Commission as stated in Bill 1; we're just opposed to all of the loopholes and back doors. As my colleague for Mount Pearl North said maybe a new bill would be better with these new amendments, then it would be

something that we could sit down and have a conversation about.

This is government's bill. It's not about previous governments. Whether they be Liberal or Tory or whatever, this is not about those governments; it's about what this government here and now that was elected November 30, 2015, campaigned on. It was one of the centrepieces to their thing, taking the politics out of appointments.

As I said and as we will continue to say, we have put these amendments in to voice those concerns. We have serious concerns with the way this bill is written. When you have a bill that can go and if they are only basing it on recommendations, as we all know recommendations are what they are, they are recommendations. Final decisions if they're made by Cabinet, well that's where your Independent Appointments Commission is, Madam Chair. It's in the Cabinet room, not in the Independent Appointments Commission office.

Until they (inaudible) those amendments that we have in place or talk to us about them, right now we can't support it as it stands, but we are willing to talk to them if they are willing to bring in some amendments.

Thank you.

CHAIR: My apologies to the Member for Conception Bay South for wrongly identifying his district.

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

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

Just to speak briefly to clause 1, which says, "This Act may be cited as the *Independent Appointment Commission Act*." So that's a telling phrase; it's a telling name.

One of the things that was in the Liberal platform in 2015 – it was their very first promise, actually – was the creation of a commission to take politics out of government appointments. Everybody wants that to happen. Everybody would like to see politics taken out of appointments to the various government bodies and agencies. People talk about it all the time. How do you get appointed to these things?

We have an awful lot of proof in our history here in the House of Assembly for decades and decades of many appointments being patronage appointments. So one imagines that's what the government or the Liberals were thinking about when they put in their election platform that they would take the politics out of government.

Then they repeated it again in the Speech from the Throne, because they had the Independent Appointments Commission in the Speech from the Throne. They said, "This commission will be the first of its kind in Newfoundland and Labrador, taking the politics out of government appointments. We believe that appointments to our agencies, boards and commissions should be merit-based, not politically motivated, as in the past."

So taking politics out does seem to be something they're really concerned about. It's a very interesting idea, but as we go through the discussion of Bill 1, we will be questioning and looking at: Does it really take the politics out? One of our amendments in particular, which I'll make when we get to section 6, will be putting in an amendment we think would help take the politics out. Because right now so much power is in the hands of the government, they don't even seem to be recognizing where they are holding power.

In our first amendment, when we get to it, we'll put something on the table to propose how to take the politics out in a very real way, in the very first step of setting up the Commission. The government will prove to us then whether or not they are serious about taking the politics out when they decide whether or not to vote for our amendment which we will be putting forward.

Right now, that's all I want to say. As we go forward I will have more to say.

Thank you.

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

MR. K. PARSONS: Thank you very much, Madam Chair – and you got the name right, thank you.

I just want to say a few words on this one, just for a couple minutes. Bill 1, I got up and spoke a little while ago when we first introduced it here in the House. Bill 1 to me is – I look at the intent. I agree with the Government House Leader, the intent of the bill is good. I really do believe that. I believe the intent of the bill is good, but it's how the bill is put forward. It's what's in the bill that I really disagree with. I know across the way there are names slung over here of people that our government appointed during our tenure in government. I really respect a lot of those names. They did a great job and they're still doing great jobs, actually, in some of their portfolios.

It's not only us. It goes back for years and years and years, since Confederation really. When you look back – and every day. You'll always see names in the public. You'll see names like Dicks and Dumaresque and that in the '90s that were appointed. It's not to say one did it right or one did it wrong. They're very respectful men and the same thing – are people. Most people who do get appointed to these commissions and boards are good people. I'm sure they're doing a fantastic job. The idea and the promise that was made during the campaign was that this was going to be done independently. That was the promise that was made.

That's not a promise because this is not what's happening in this bill. What's happening in the bill basically is that it will all come back to Cabinet. Now that's not what the promise basically says. The promise they made in their election platform was that we're going to take out – the words were: take politics out of appointments. That's what we heard: taking the politics out of appointments.

Maybe you can do it and maybe there are ways of doing it. I'm hoping people across the way will look at the amendments we're doing and perhaps we'll have the best piece of legislation in all of Canada. That's what I'd love to see come out of this.

When you say to the people of Newfoundland and Labrador that you're taking the politics out of appointments, they look at you to say, okay, so that means politicians are not going to have the final say in who that person is. The best possible candidate will be the one that's selected.

I think that's what everybody looked at when this promise was made to the people of Newfoundland and Labrador. They said, okay, all these years since Confederation it was always – and we've heard it. Listen, everybody in this House and everyone listening at home, it was always said it's not who you know, it's what you know. You're not going to get a job unless you know somebody there. That's sad, but do you know what? Today that's leaving because if you see how

people are getting appointed, like no matter what it is, fire departments and stuff, they don't even use names anymore and stuff like this. It's a good way of doing things because it's fair. That's the same thing with this.

We want the best possible legislation that's available. We want to make sure when we finish Bill 1, when it comes out that, okay, we got a piece of legislation in place for the people of Newfoundland and Labrador that they feel confident in. Not something like a Member said earlier, smoke and mirrors. You want it perceived as, oh, we have this great legislation in place and everything is hunky-dory, that the people are very, very pleased with, but down the road things change. What can change in this is that the Appointments Commission will recommend – now, we can't call them an Appointments Commission; they should be called a recommendation commission because they only recommend. They do not appoint. That's the big difference that we'll see here today is that they do not appoint. You have to remember that it's a recommendation.

Then what happens, they'll recommend three people that will go to Cabinet. This is the part that I'd like to see is that there be some kind of a ranking. So here are the criteria for the job – and this is what's normally done – and here's what you need to meet that criteria. It could be anything, your education, your background experience and stuff like this. Here are the things we are looking for in that job.

When you go into most jobs what they'll do, they'll rank you. They say okay, the first job, education; well that's exactly what we're looking for, education. So it goes one, two, three, four and how it goes down the line on each one. At the end, you have three people. These are the three best qualified people for that job. These are the three best people for that job. Number one, he or she has everything that we were looking for. Number two, well, we would like a little bit more experience, but still qualifies and that's why we selected that person as number two. Number three would be okay, still has great experience and stuff like that but when we interviewed them, this is the way we ranked them.

That doesn't happen at all in this bill. The commission do not give you a ranking; they just give you three names. Now, one person could be so qualified, they could have years and years of – and that person is head and shoulders over everyone else, but it's only that name that goes up to being a recommendation.

Here's the scary part of the whole bill, and the part that I really don't understand. These three individuals do not have to be the person that they choose. After going through this whole process, huge process of getting the names – it could be hundreds of people, could be 50 people, could be 1,000 people, I don't know, apply for this job, apply for head over this department, head over this commission, head over whatever. Here they are, they applied for this and it goes through the whole process through the recommendation commission, the whole process goes through and those three people that are after going through the whole process – they don't know their ranking or anything like that, but their names get forwarded to Cabinet. And obviously, a good commission are after going out and they're after finding the three best possible people to do the job.

The three names go to Cabinet, yet Cabinet, if they don't want them, they can say no, that's not the person I want. They can appoint somebody completely different. Now, what is the difference – the Member said smoke and mirrors. I believe this is smoke and mirrors but this is the worst kind because you're trying to lead people to believe that you're doing something and you're not actually doing it.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. K. PARSONS: I remember one time a boss of mine said you've got to make them believe you're telling the truth. That's what they're trying to do to the people of Newfoundland and Labrador. They're trying to make you believe this is independent when it's not. It's not truly independent because at the end of the day once the appointment comes out where they are appointing a commission for the Auditor General – they could have a name that we're going to put in as Auditor General of this province. The whole process can go right through the whole system. Then all of a sudden, the three best names after they interview them, they check out all the references, they checked out their education, checked out their experience, checked out everything, and we have three really good candidates to do that, these three names get put up to Cabinet.

The Cabinet – before it all started – probably said this guy would be a great guy or this lady would be a great person, and that name they could have there too. Let me tell you, I am not saying that person wouldn't be qualified because I'm sure you wouldn't appoint somebody to the Auditor General's portfolio if they weren't qualified. I mean, that's a huge position and you really need to know what you're doing to be the Auditor General. I applaud Mr. Paddon and all Auditors General, Mr. Noseworthy and everyone else who I dealt with since I've been here. I was on the Public Accounts Committee since I've been elected and I have to tell you they do a fantastic job.

My point being is that we could have three really good candidates – this is the problem with the whole bill. This is the gist for me because I agree with us taking politics out, like the promise was. The promise was to take politics out of appointments. Those were the words the Premier used. Those were the words that were in your red book. Those were the words when you knocked on doors and they talked about people getting appointed for everything and you had to know somebody to get a job, those were the words you used to the people in the province.

That's not what's happening here at all. What's happening here is you can have you want; this commission is just going to give you a recommendation. It's going to go up to Cabinet, you're going to sit around the Cabinet table and you're going to have a person who you have in your mind, this is the one we want for the job and that person may qualify. Yes, that person may be a great candidate, but it may not be the three names that were recommended. It may be someone different.

Here's the worst of it. If you came out publicly and said okay, we have candidate A, B and C and these are the three people who were recommended for the position, but we don't want that person because we have another person. If that was put out publicly, if the public knew that, then maybe the bill would be okay. If that's what the intent of this bill was to do, was to put it out into the public and say okay, we disagree with the commission. We don't agree with A, B, and C because they are not as qualified as the person we have selected. If that was the case and you could justify it then okay, but that's not the case. No one will ever know. They'll never know the three people that goes up to Cabinet, and they'll know if those three people were the actual ones that were recommended. No one will ever know. It's secrecy at the worst.

It's unbelievable that you could even think about doing something like that. It is even worse than what it was before because you're putting all this bureaucracy in place and getting all this work done, yet you're cutting her down and saying no, that's the person we wanted.

AN HON. MEMBER: (Inaudible.)

MR. K. PARSONS: I say it seriously.

Thank you, Madam Chair.

SOME HON. MEMBERS: Hear, hear!

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

MR. KENT: Thank you, Madam Chair.

I'll join some of my colleagues in taking an opportunity to speak to clause 1 of the bill and respond to some of the things that have been said so far. I thank my colleagues for really summing up the fundamental problem we see with this legislation.

So when we're talking about clause 1, this is a clause that defines the bill's short title. At this point in time we won't be amending that clause. But the clause reads: "This Act may be cited as the *Independent Appointments Commission Act*. So, for the reasons that my colleagues have outlined, maybe it would be appropriate at some point in time for us to change the name of the bill.

I'm hoping through the course of this debate in Committee we'll make changes that will make the bill more effective, but to suggest that it's called the *Independent Appointments Commission* is incredibly ironic, Madam Chair, because we're talking about a group that at this point, based on the way it's proposed, won't be at all independent. And here's the real kicker: It won't even be able to make appointments.

We thought maybe it should be called the Liberal recommendations commission or something like that, or a more cynical name might suggest that it be called an act to justify Liberal political patronage appointments. But that's overly cynical.

The Government House Leader has expressed a willingness to work with us through this process, so I'll take him at his word. I hope that of the 16 amendments we've brought forward will all get adopted by government in this House. But at the very least, I hope a number of will because it will make a flawed piece of legislation a little bit better.

However, the right thing to do would be to scrap it altogether and start again. It is so flawed that there are amendments required to virtually every clause of the bill to make it a sensible piece of legislation. Even then, it's still not the optimal approach.

Much like the recent budget, it would be far better to admit you got it wrong, throw it out and start over. That would be the right approach to take with this *Independent Appointments Commission Act*. In the absence of doing that, then we need to do our best to try and make this legislation at least a bit more sensible and workable.

We want to ensure the commission is truly independent, that it's impartial, that it's accountable and that it's effective. So that is why we will be bringing forward amendments to many clauses in this bill. If the bill isn't significantly amended, then I think a name change would be warranted. The current bill

doesn't create a commission that's independent, doesn't create a commission that can make appointments.

Just a general comment on our amendments, they may seem a bit complicated in some places, but they're intended to be really straightforward. We've laid out the language, we've consulted with others to try and make sure the amendments are technically sound. I hope that we'll get an opportunity to debate each one of them in this hon. House.

The other point I want to make, Madam Chair, in response to the Government House Leader's comments, if government had wanted to avoid this kind of process in the House where we have to introduce an amendment – it's the typical process: you introduce the amendment, you debate the amendment, you pause to consider whether the amendment is in order and then you debate the amendment if it is – there was a better way.

We didn't have all our amendments finished six weeks ago, but we did provide some public commentary. I did media interviews where I outlined the kinds of amendments we were going to bring forward. Now we've got them written, and today is the first opportunity to present them in this House.

The bill could have been sent to a legislative review committee, a committee of this House, with all parties represented. A committee could have been struck to review the legislation. The beauty of that process would be that we could go through the bill, clause by clause, and make suggestions, propose amendments and really understand – get a better sense of what government's intention is, and maybe make modifications that we could all agree to that would make the legislation better.

That process wasn't the one that was chosen, so I just want to be on record that we did suggest that about six weeks ago when we were going through the second reading process. I still believe that would have been a better approach. Nonetheless, we are where we are. We'll go through the traditional process. We'll introduce amendments.

In fairness, there have been times where governments in this House have adopted amendments that have been put forward by the Opposition. I recall during recent sessions of the House of Assembly that that happened. So I hope today government will work with us and we'll be able to make some changes that will make the bill better and put us in a better place.

The Government House Leader also said that regardless of whether any changes are made, this process will be better than the one that existed before. Well, I beg to differ. I have to respectfully disagree with the Government House Leader because I think we're going to be in a worse place. I believe we're going to be in a worse place because what this bill does is give Cabinet power to make appointments which it can do today but then hide behind a veil of legitimacy. Because of this smoke and mirrors piece of legislation that is being proposed, now Cabinet ministers will be able to hide behind this veil of legitimacy and simply appoint whoever they want in secret behind closed doors. I don't think that's better. I think that's actually worse.

What we hope to do as we go through this bill is make some changes that make it a little bit better. It's not ideal. Even if all of our amendments were passed and even if the amendments proposed by the New Democratic Party were passed, I still think we're not in a great place and there is a better way. We'll make the best of a bad situation and try and get the bill to a more sensible place.

While I still have a few minutes, I'll just make some other comments on the bill generally. I think it's important to point out that beyond the application stage, beyond the point where somebody applies to serve on a board or a committee or a council or a commission, there's nothing about the process as proposed that's public.

I also have a problem with the Appointment Commission. The initial five person commission is going to be appointed by Cabinet then rubberstamped in this House, but there's a better approach there as [well] to have all parties engaged in making sure that that commission is truly independent. Why not involve all three parties in the selection and appointment of that commission?

We also have some concerns about the entities that are listed in Schedule C, where some appointments will go through the Public Service Commission. The Public Service Commission will basically produce a list of applicants they deem qualified. They'll give the list to a minister and the minister will simply make the appointments, and not even subject to any kind of Cabinet process. Now I recall from having served in Cabinet that even routine appointments would be subject to some kind of Cabinet process, but apparently that's not the intention of the Liberal government.

When the Premier presented his flagship piece of legislation – I hope we'll hear from him during this debate – he indicated that he wanted the best person for the job. Well, for the big jobs, for the ones that will be subject to the Independent Appointments Commission, this process will identify a few qualified people and then let Cabinet pick behind closed doors from that list that won't even be (inaudible). There's a fundamental problem with that. If you really want the best person for the job then you have a process that would truly identify the best person for the job. So we have some concerns with that.

Because of the Public Service Commission's involvement, I'm worried about the potential for political interference with the Public Service Commission, which hasn't traditionally been a problem. The Public Service Commission does good work, but I'm very concerned about how this is going to play out. I think it's also important to note that everything the Liberal Appointments Commission recommends is simply a recommendation. It's non-binding.

Madam Chair, this bill, as it stands, does nothing to take the politics out of appointments – which is another one of the Premier's famous lines. Over and over again we've heard this is going to take the politics out of appointments. Well it does nothing like that at all. This legitimizes a political process. It's an attempt to legitimize a political process.

Again, we're talking about a commission that will have zero authority to make appointments. So those are just a few comments. We'll have lots of time to talk about this bill and talk about the various clauses, but I'm pleased to have a chance to get up and at least make a few general comments on clause 1 before we get into the more detailed clauses and specific appointments that at least two parties in the House will be putting forward. I hope perhaps even government will acknowledge some of the concerns that have been brought forward and present some amendments of their own as well.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

Just a couple of points I want to pick up on, following up my colleague from Mount Pearl North, and it has to do with the process of working together on the piece of legislation. I hope we will have an open discussion here in the Committee of the Whole because when the Government House Leader first came to us, when we first got the bill, the suggestion was for us to submit recommendations; if we were going to want things amended to submit those to the government so they could have a look at them ahead of time and decide ahead of time what they wanted to do with any amendments we may be suggesting. When that request was made, our response as one party in the House was, no, that's not the way we saw that it should work.

If we use a process that's more common in the legislative system, what would happen is the act would come to the floor. Then, if there were things in the act that needed to be discussed in Committee, what happens in Ottawa, for example – and it's even in our Standing Orders – is that things can get referred to the all-party committee that would deal with a piece of legislation.

Rather than having a Committee of the Whole, if we had an all-party committee that dealt with the kind of legislation we're dealing with today in Bill 1, then we would take the pieces of the act that we had some controversy over and pass it on to the all-party committee. The all-party committee would deal with the points of contention and then jointly agree on what would come back to the floor of the House. That's how it works in Ottawa and that's how it works in some of our other provincial Legislatures.

We don't do it that way. We go through our bill too. We go through second reading and then everything comes into Committee of the Whole. So a Committee of the Whole is where we deal with the concerns. Committee of the Whole is where we put out our suggestions for recommendations.

It's not letting government know ahead of time what can be problematic and they're ready for it and they come into the House and there's no real discussion. This is where we're supposed to look at the things that may be contentious and where we try to work it through.

Now I would prefer that we had a process, like they have in the House of Commons and in other provincial Legislatures, where you actually have an all-party committee that does the committee discussion in a smaller setting that can also call in people to be witnesses in the discussion, and call in other people to come and give their opinion on what the bill is. If we had that kind of a process, I think it would be a much more open process, but we don't.

The most open process we have is the discussion that happens in Committee of the Whole. Although, our Standing Orders do say that we could do what I'm suggesting, that we should have standing committees. Our standing committees for Government Services, Natural Resources and Social Services, those standing committees can be the committees that would receive something from the House and be asked to work on. We don't do that.

It's in our Standing Orders we can do it, we may do it. We don't do it. So when the Government House Leader came with his suggestion our reaction was, no, well that's not the normal way we do it. We do it in committee. We bring our discussions to a committee. That's what we're doing here, and we're happy to take part in the discussion as it goes on.

Thank you very much, Madam Chair.

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

SOME HON. MEMBERS: Hear, hear!

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

I just have a couple of minutes; I had 10 the last time. I just want to talk to a couple of points because once we get into the amendments we'll be talking about amendments and the leave. Right now we're just talking about the bill, the overall bill.

I want to agree with the Member who just got up and spoke. I'm part of the All-Party Committee on the Fishery and we've been meeting on a regular basis. I tell you, it's real good to know that we're all there, it's a committee and everybody is listening to each other's opinion. Yet, government does have, at the end of the day with the majority of Members on that committee, anything that's going to be said or what recommendations come out, they will have – at the end of the day, the recommendations that will come will be voted on by government.

An all-party committee, no matter what, will always be controlled by government Members because they have the majority of people on those committees. That's the way it works, but it's a great opportunity for the other parties to put together ideas and suggestions to the minister and to the people who are on that committee and work together. That's what an all-party committee does, it works together to make sure the best possible results will come out.

When the hon. Member suggested this should be deferred to an all-party committee, I think that this legislation is important. It's important to the people of the province. It was so important to the Liberal government during the election. It was one of their biggest platforms. They raised the expectations so high – you raised the expectations of people. They really said, okay, finally – and they voted for it. They voted for you and they voted you people in your seats over there. That was one of the reasons they voted, because they wanted change. There's no doubt about that.

They wanted legislation that was going to come forward that they agreed to, which made sense to them, that people – rather than who you know, would never come up again. It would be done through fair, and it would be done independently, and it would be done by people other than politicians to make the decision at the end of the day.

That's not saying politicians make the wrong decisions or whatever, or don't select the right people, but this was a promise. This is what you promised the people of Newfoundland and Labrador. You promised an independent commission that would take the politics – and these are the words you used – out of appointments, but you're not doing it. This bill is a far cry from what the promise actually was. The promise was that politicians wouldn't have a say. It would be an independent commission that would determine who gets the positions within government.

I don't understand; I really believe it's a step forward we've made in the last couple of years in the House of Assembly with all-party committees. We started with mental health and addictions. We decided to set up an all-party committee with that. Now it's still in the process, but do you know what? It gives everybody an opportunity who's on that committee to have a say; to sit down and say these are the things we need to do. This is the best possible thing.

At the end of the day, it's government's decision. No matter what happens with this bill today as we put our recommendations, no matter what happens, people out there have to understand that at the end of the day the governing party will say what happens, but we're here to try to make it a better bill. We're not here just to put out recommendations so we can all sit around and argue over it all day long. That's not the point of this at all.

The point we're making here today and the point my Member just made to defer to an all-party committee is to have the best possible bill that can be out there. That's what this is about. We want to make sure people have confidence in this House to say, okay, they're doing the right thing.

Every time you're in government, some people will argue with decisions you make and whatever, but I hope everybody makes the decisions on doing the right thing. Doing the right thing would be to make sure we have the best piece of legislation that's available.

Deferring it to an all-party committee takes the House of Assembly away from it. It lets people sit down and really give their point of view and people can say, oh, yes, I understand that. Yes, I can see where you're coming from and whatnot. That's what we want, and that's what the people want. That's what you promised. That's a promise you made to the people of Newfoundland and Labrador, that you were going to take the politics out of it. You were going to have an independent commission that would come and here's the best person.

At the end of the day, the people of Newfoundland and Labrador want the best person qualified to do the work for them. No matter if it's the Child and Youth Advocate, if it's – like I said earlier – the Auditor General. Whatever it is, we want to make sure the best person qualified is the person who does it. This bill is not going to do it. It's not going to cut it.

The other thing, I talked to the Members across the way. This is Bill 1, your first bit of legislation coming in here to the House of Assembly. This should be the bill that comes in and says, okay, one of the big promises we made in this election, we made a huge promise to the people of Newfoundland and Labrador and we're going to live up to it. We're going to live up to the promise we promised you. We told you this is what we're going to do. Well, it doesn't live up to it. It's not even close to living up to it.

I'd say looking at this, it's almost like you're trying to fool the people of Newfoundland and Labrador but they're not getting fooled, obviously, because they're smarter than that. I mean, we hear all the time when we're debating the budget, you don't understand, the media don't understand, nobody understands, nobody in this province understands, but I tell you the people of Newfoundland and Labrador do understand this. They do understand that unless it's out in the public, unless a commission that's independent from government makes the appointment that it's clear of government – that's what you promised. That was the promise that you made to the people of Newfoundland and Labrador.

Now, we can talk about promises, but I'm not going to go there. That was a promise that you made, and that's what the people of Newfoundland and Labrador wanted. They really do. They want an independent commission that is going to be able to say, okay, at the end of the day, the person that's most recommended to do the job is the person that got selected.

I ask the people over across the way: Isn't that what you want? We talk about openness and transparency. How more

open and transparent can you be if the persons that are qualified to do the job are put out there and said these are the three best candidates to do this position, Cabinet has it and we're going to look at it and we'll give you our decision tomorrow or the next day when Cabinet meets?

Is there something wrong with that, putting it out so people would know? Not to say okay, give us three names, we'll keep them in the envelope, no one will ever see who they are, yet the person we wanted all along is not in that envelope but we're going to take that person because we might not even open the envelope. How are they going to know? Really, how are the people of Newfoundland and Labrador going to know that the best qualified person has that job?

You want to be independent, you want to show people that you're transparent, you want to see openness, well, put the proper procedure in place so it is.

You can go back over years, and I hear people chirping over there now it is what you did years ago and you did this, but you raised the expectations of the people – come election time, this was one of your big platforms. You were going to take it all out. Like again another promise –and we know about promises. But it was another promise that you made to the people of Newfoundland and Labrador that the politics would come out of appointments. This is a far cry from what you're doing.

You really have to be honest with yourself. Maybe when you first brought in the bill, you looked at it and said yes, this is a great bill; we're doing a good job and everything else. But when you really go back and look at it, it's worse than what we had. It really is worse than what we had because you are giving expectations to three people that you're qualified for the job, but you aren't getting it because we have a person in mind to do that. That's what could happen here.

I know that some of you are over there shaking your heads and agreeing with me because it can happen, and you know it can happen. Why put that in place? I'm not saying the person that's selected won't be a good candidate. Anyone that has to do these jobs, I sure hope they're qualified to do it because I know a lot of people out there are really qualified to do the job. Why not be open? Why not be transparent like you promised? Why have it under the secrecy? That's what this is. This is pure secrecy what you're doing here now. No one will know. We don't need to tell.

What does that tell the people of Newfoundland and Labrador? We don't need to let you know who the person is, no, no. We don't need you to know that the person that got selected wasn't one of those three. That's shameful. It really is.

You're not really giving Newfoundlanders and Labradorians the credit they deserve. They're smarter than that and they do understand. Many times in this House of Assembly we hear the words, you don't understand. I tell you, you've got to give the people of Newfoundland and Labrador a little bit of credit because they do. The process is flawed with what you're introducing. It's really flawed.

There's an opportunity to make it the best piece of legislation in all of Canada, where we all can sit down and agree at the end of the day this is a great piece of legislation. The intent is to take politics out of it. The intent is to be open and transparent. The intent is to have people in Newfoundland to have confidence in government, have confidence in politicians. I want them to have confidence in what I do here

today and I want to have confidence in what we do here as a general (inaudible).

Thank you very much, Madam Chair.

SOME HON. MEMBERS: Hear, hear!

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

MR. KENT: Thank you, Madam Chair.

I'd just like to build on my colleague's comments and make a few more comments about clause 1. I really want to emphasize that this bill does nothing to take the politics out of appointments. We're talking about a new commission that isn't independent and has absolutely no authority to make appointments. There's a fundamental problem that we won't be able to totally fix through amendments here this afternoon and this evening, but we will try and make it a little bit better.

One of the suggestions that have been made is that this is going to be non-partisan. What's non-partisan about allowing Cabinet Members, individual ministers, to hand-pick from a list of candidates, whether they're doing it through the Public Service Commission in the privacy of their offices, or whether they're doing it through this new Liberal Appointments Commission? In either case, there's nothing non-partisan about it.

The Premier says he wants to take politics out of appointments, but Bill 1 ensures that politics always, always, always trumps process. That's a real challenge for us, Madam Chair.

When this bill was first introduced, it was highlighted that Cabinet can simply appoint. Cabinet can simply bypass all of this process that's being laid out here in Bill 1 and simply appoint who they want. Do you know what government had to say about that? They said, well, we don't expect that to be a regular occurrence. Even from the introduction of the bill government acknowledged that even if this process is smoke and mirrors, we're just going to totally ignore it and appoint who we need to appoint from time to time, but we won't do that too often.

Another Cabinet minister suggested during the initial discussion on this bill, during second reading, that this would be a significant change. Well, I would argue that as it currently stands, this bill doesn't change anything. It tries to justify political appointments. As we said during second reading debate, there are times when government will appoint people, and so they should. That's part of being government. They received a strong mandate from people of the province, and yes, sometimes they're going to make appointments. That's part of carrying out the business of government, but don't say that you're doing it independently and through this arm's-length Appointments Commission that isn't independent and can't make appointments, because that's just simply smoke and mirrors and it is not accurate.

The list of names that is being put forward to Cabinet by this new commission won't be made public. I think that is worth noting as well. So there's an air of secrecy around this entire process from start to finish beyond the application stage. If Cabinet chooses to ignore the three recommended names, then there's no mechanism presently for that to be disclosed, which is one of the things we will try and address as we propose amendments to the bill.

When the Premier was questioned on that in the initial news conference he said, well, those Independent Appointments

Commission members can complain or resign if that happens, if they feel that the process is not being respected, but hopefully that won't happen too often. He expects that to be rare. That's all very concerning, Madam Chair.

Another thing that's concerning is that twice in the bill it actually says that Cabinet can ignore recommendations; Cabinet can do what it wants. So that's highlighted at two separate points in the legislation that we're debating here this afternoon.

This is very much about Cabinet secrecy and Cabinet control. I recall at the news conference hearing the Premier say, well, that's the way things work. Well, if you say you're going to do things differently, then your actions have to reflect that. Unfortunately, Bill 1 doesn't reflect anything new or different.

How can you say you're taking the politics out of a process if Cabinet can simply do what it wants at the end of the day? That's really one of our fundamental concerns with this whole process. They're setting the stage already to just go and do what they want by making comments about extraordinary circumstances and occurrences that are going to be very rare when the legislation is not followed. It's all very concerning.

If all decisions ultimately – no matter what process we finalize here today or tomorrow or whenever we get this bill finished, no matter whether there are changes made or not, if all the decisions come down to politicians making appointments behind closed doors, how can you claim that's not political? How can you claim that's not a political process? I think we should just do what we say we're going to do, but you can't say you're going to do one thing and then do another, which is the real problem we have with Bill 1.

When the Premier kept saying these commission members will resign if Cabinet doesn't respect the process, that's an incredible red flag from our perspective, Madam Chair. If you don't like our decisions, you can resign. That doesn't sound like a legitimate, independent, objective process to me.

Relying on commissioners resigning to ensure the integrity of your process probably means your process is flawed out of the gates, which is the real concern we have. You can't possibly say that's independent or you can't possibly say that's non-political. Cabinet at the end of the day gets to pick names from a secret list.

The Finance Minister, during second reading debate said – I think it was during second reading debate – that she's proud of this piece of work. All I can say, Madam Chair, is that this bill is a piece of work, there's no doubt about that. I just wish there was an opportunity to do some more work on it before we get to this stage of the process. A committee that would have allowed us to work through this and try and come up with something meaningful and sensible would have been a good approach if government was serious about making change, but they're clearly not.

Madam Chair, 130 boards and agencies are exempt from this new Independent Appointments Commission process.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KENT: Thank you, Madam Chair.

If the Education Minister has something to say, he can certainly rise when I'm done in a few minutes. I look forward to his contribution to the debate as well. He's been chirping at us throughout Committee of the Whole this afternoon.

Several of my colleagues have commented on that. I'd encourage him to get up and share his views. We'd welcome that because he has been notably quiet for the last number of days. We'd welcome his participation in the debate as well.

As I was saying before I was interrupted, 130 boards and agencies are exempt from this new process. So that's a real concern. During the news conference on this piece of legislation, the government ministers that were there were asked if they will appoint five high-profile Liberals as the initial commission, and they didn't deny that. They just said they'll look for the best people. Well, maybe if you are serious about having an independent, objective process, let's work together; let's have all parties of the House play a role in appointing those people.

We'd still like to get clarity on which agencies, boards and commissions are not covered. It's an extensive list in the legislation. We still haven't received a clear answer on which agencies, boards and commissions won't be impacted by this legislation.

Another concern I'd like to highlight – I only have a minute and a half left – is it's been said by government that they'll be no added cost to doing all of this smoke and mirrors exercise. Well, does the Public Service Commission have that much extra capacity? I don't believe they do, Madam Chair. My experience tells me that the folks of the Public Service Commission are quite busy. So how all of this work can be done with no added cost and with no additional resources is another cause for concern.

Madam Chair, Members of government have referred to this piece of legislation as groundbreaking. Well, I'd suggest that this is a piece of legislation that is not at all on solid ground. We'll propose amendments, which hopefully government will consider, that will make it a bit better, but at the end of the day I fear it will still be severely flawed.

So send the whole thing to committee, let's take the politics out of it, let's all work together to come up with something that's truly independent and something that can truly make appointments and then we may land in a sensible place. That's my appeal to government this afternoon, and I look forward to continuing debate on the clauses of this bill.

Thank you.

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

MR. K. PARSONS: I just have a couple of more little points. The Member just brought it forward there, that point. If we really want to get independent here and have five people that are selected on this commission, why don't we do it through the all-party committee? Why don't we just do that? Just pick parts of this that we can do through committee so people can see that it is an independent commission and it is people that are – again, as the Member for Mount Pearl North just stated, this commission is done through appointment of the Premier and Cabinet and they'll just select the five people that are on this commission.

So how can the people in the province have faith in the people who are selected? Why don't we just do this the right way? Why don't we just put it to an all-party committee and we all come up with suggestions of people who should be on this commission. I don't know if anyone is going to want to be on it, to tell you the truth. It's a lot of work. As far as I know, it's basically a volunteer type thing. The commissioners are not going to get paid. That's what I understand. It may be a job to get people to serve on this, I'm not sure.

My suggestion to the government is if you really want to make this independent, if you really want to be open and transparent, like I said earlier, why don't you just put it to an all-party committee? I have Members agreeing with me. We can have it so that at least when we get to the commission part of it, the commissioners who are there are people who were selected by people from an all-party.

For example, the PCs could put 10 names forward, the NDP could put 10 names forward and the government could put 20 names forward and we could select the five best people for that. At the end of the day, you have the majority of the people on the all-party committee. So at the end of the day, at least you can have the say you want. You can have the control that, obviously, you want in this. Why don't you just come out and say, okay, we listened to your suggestions but the five we are going to select are these five.

At least it gives us the opportunity to sit down and talk, and say these are the people who are best for the commission. There are the people who would be good. We could have five individuals and maybe one that we suggested. Maybe it could be one that the NDP suggested. It could be three you guys suggested on this. The NDP may have five excellent names. We could all look at it and say, listen, those are the five people who should be on this commission. That makes sense. That person brings this; everybody brings a little bit.

No matter what you do on a committee – I've been involved in committees all my life and it's nice to see people who bring a different perspective. It's nice to see people bring – wherever I go in any committee I'm on, I always like to see the youth engaged. I believe today, more so than ever before, our youth are engaged. That may be one part of it where you're not looking in this commission. Maybe a young person – and gender, obviously, plays a huge role.

We all have the right to sit down and discuss it, not just come out of Cabinet and say, okay, these are the five people we've selected. Now how did you come about selecting those five people? Not telling you. No, you're not going to know. We're not going to tell you. You just take it or leave it, and we're open, we're transparent. Take it or leave it. Those are the five people we selected.

Now how did you come by those selections? Not going to tell you that either. We don't need to do that. Just take it or leave it. These are the five people that are going to be there. Have they got any allegiance to this one or that one? Don't need to tell you that either. Do they work here or did they work there? Don't need to tell you that either.

It's the whole piece of the bill and I can't believe you're not getting it. I can't believe you're not getting what people are saying and why this bill is so flawed. The intent of the bill is excellent. The intent of the bill, why the bill was brought in the first place is what it should be brought in for. What the bill actually does is not even close to what your intent is.

You promised the people of Newfoundland and Labrador politics out of appointments. I think those were the exact words you used. I apologize again for repeating myself, but I have to say it's another broken promise. It's a huge broken promise because you're trying to fool the people of Newfoundland and Labrador about it. They're more intelligent than that. They understand. They see what you're doing. Here it is.

People do understand. They won't understand, they don't understand – if I hear that anymore in the House of Assembly I'm going to go mad because they do understand. People do understand. You talk to people every weekend

home in your districts, do they understand? Yes. Well, tell the Minister of Finance they do understand because no one understands. That's the same thing in this bill. You've got to –

AN HON. MEMBER: Relevance, relevance.

MR. K. PARSONS: The relevance is the people do understand what you're trying to do here. The relevance is that you're trying to put something through that's not what you promised. It's just like everything you're doing, with the budget and everything else. Everything you're trying to do.

CHAIR (Lane): Order, please!

I would remind the Member we're speaking to the bill.

MR. K. PARSONS: Okay, I know. We're speaking to the bill, but there are a lot of similarities here, Mr. Chair. A lot of similarities here when I talk about promises and what they promised and what they're not giving, and what they promised and what they're not giving and what they promised and what they're not giving. I can say that a few times more. That's what the whole thing is about here.

The intent of the bill is fantastic. The intent of the bill is to make people have confidence in the House of Assembly, make people have confidence in politicians, make people feel that this is the right way of doing things and they're doing the right thing in there. But this is not what it's doing.

I'm going to go back to the five Members that are selected on the commission. I believe that should be done through an all-party committee. We can put our suggestions in, you put your suggestions in, the NDP, and let's get the five best candidates. Why does it have to go – and you may say, well, it's always done that way, but that doesn't necessarily mean it's right.

My father used to say, if you're going to do something do it right the first time. He always said, do it right. When you're going to do it, do it right the first time. So why not do this right now? Why not do this right now? Why not just get a piece of legislation that everybody in this province can be proud of, that everybody in this House of Assembly can walk out through the door in the evening and say, wow, we did a great job. We have a great piece of legislation. The people of Newfoundland and Labrador are going to be pleased with it.

That's not what this is all about because this is more smoke and mirrors. This is thinking that the people of the province don't understand. They don't know, but we're doing a real good thing here. This is a wicked piece of legislation we just did for you. This is wicked, this is unreal. You'll never know who the selection was. You'll never know who the three people were but that's okay, you don't need to know that.

The person that was selected wasn't from the commission. He was one we already had picked. Now the commissioners, if they don't like it – if the commissioners don't like it, do you know what they can do? They quit. Wow, that's great. So they can't say anything, can't do nothing. The only way to get around that is to quit.

Well, if I was on a commissioner – I don't like quitting on anything. I'm not a quitter and I don't think most Newfoundlanders and Labradorians are quitters. They usually go and fight for their rights and they do what it is. That's why we are what we are as a people. We really are –

SOME HON. MEMBERS: Hear, hear!

MR. K. PARSONS: We're not quitters.

We will have hard times coming at us and there may be difficult situations that come forward to us, but I can tell you right now Newfoundlanders and Labradorians are not quitters.

I don't think anyone on this commission will be a quitter either. I really don't think so. I think they'll voice their concerns and perhaps they'll say, okay, now maybe the next time when we put the three names together, we work hard on it, we have interviews, we went through all the candidates that were available to us, we looked at them all and we found the three best that we could find that were suitable for the job. But when we put it up to Cabinet they said, no, that's not the person we want. I don't know if they can go back and say get us another three. I'm not sure if they'll do that or if that's what they want, if it's not the three they want because that's what you're opening this up to.

I just ask government Members, and I'll sit down now in a second. I just ask people on the government side to probably do the right thing. How about doing the right thing? People elected you to do a job for them, to represent them to the best you can do.

Looking at this bill, obviously, you all know this is a flawed bill. There are major flaws in this bill. So why don't you do the right thing? Why won't the right thing be done? We come in every day and we talk to Members across the way with issues they have in their districts and everything else, and I'm hoping that they'll do the right thing when it comes to those decisions.

But this is your first bill. This is the bill you brought in to be your landmark for four years. This is the number one bill, the one promise that you promised the people of Newfoundland and Labrador, the one big promise you promised them. They promised a lot of other promises, but the one big one that they really – the first bill that they came in for and you're letting them down –

CHAIR: Order, please!

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

SOME HON. MEMBERS: Hear, hear!

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

MR. KENT: Thank you, Mr. Chair.

The Member for Cape St. Francis certainly raised some interesting points. I hope he'll have some time during the debate to expand on those because he was on to something there. I hope, while he seemed to building some momentum, he'll rise and continue again.

But I'd like to pick up on a few things he said. I'd also like to remind all hon. Members that this debate is not about what we did, or what any other administration did. This is about what the Liberals said they would do differently in the mandate document that they were elected on.

It's the Liberals who said they'd change the way things are done. So they raised that bar and now the onus is on them to rise to that level. Otherwise, Mr. Chair, if they fail to do so, if this is just smoke and mirrors, as the Member has said and not a real change, then their commitment wouldn't be worth the paper it's written on. That would raise an integrity issue.

Surely, they wouldn't want that to be the case with their very first piece of legislation, Bill 1.

This initiative, Mr. Chair, was not a minor commitment. It was about as major as a commitment could be. It was the very first plank in the 2015 policy red book, the very first item in the very first section of the red book. So it's hardly a trivial matter to them, which really makes you wonder how we got to this point with such a flawed piece of legislation.

So it's now the very first piece of legislation of their mandate and Bill 1 is traditionally the keystone bill that you want to define you as an administration, as a government. It's something that you would expect your administration to be judged by. Having set expectations exceptionally high they can't fault us, or fault the media, or fault the public for demanding that the bill live up to the expectations that they've raised.

Just building on the comments from the Member for Cape St. Francis, let's see if their legislation does indeed rise to the level they have set. A big election promise, let's look at that election promise in more detail and their red book commitment reads as follows, Restoring Openness, Transparency and Accountability: "Liberals strongly believe the government must be open, transparent, and accountable. The people of the province deserve to know how and why government decisions are made. When government is not open, transparent and accountable, Newfoundlanders and Labradorians are denied their right to the democracy they deserve." The current Premier – his name is listed; I'm not allowed to say his name in the House – "and a New Liberal Government will restore openness, transparency, and accountability to government through the following actions: 1.1 Take Politics Out of Government Appointments" – interesting indeed.

"Government is responsible for appointing senior positions at Crown corporations, public commissions, and other public agencies. Liberals believe that these positions should be filled based on merit, not politics. It's simply a matter of making sure the most qualified person gets the job." The most qualified person.

"A New Liberal Government will establish an Independent Appointments Commission to take politics out of government appointments. This nonpartisan commission will screen candidate, apply a gender lens, and recommend the most qualified people for appointments, adding a much-needed level of independent review to the appointment process."

Now, I don't believe in going through Bill 1 – it just jumped to mind here – that there's any reference to gender lens, that there's any reference to gender or ensuring diversity. I know that from listening to media reports, the New Democratic Party will be bringing in an amendment that will address that issue, and I think that's a good thing. I think it's good that there will be some further debate and discussion on that particular issue. Because it's right in the red book that this will viewed through a gender lens, which implies that there will be something done to ensure gender diversity and other forms of diversity through this commission.

The key words in what I just read to you, Mr. Chair, are these: A new Liberal government will take politics out of government appointments by making sure the most qualified person gets the job. But it doesn't take the politics out of appointments. The decisions will all still be made by Cabinet ministers behind closed doors and by picking a name from a list that is not even ranked or weighted, and maybe not even picking one of those names at all. How does that ensure that the most qualified person gets the job? It doesn't.

The implication, Mr. Chair, is clear. The implication of what they committed to is clear. The appointment process would be completely oblivious to political associations, blindfolded to political links. Just like the blindfolded statutes in front so many of the world's top courts.

But even that red book commitment ends a little weakly. Because if you really want to make sure that the most qualified person gets the job, then wouldn't you expect the Independent Appointments Commission to do a lot more than simply make a recommendation? I would think so.

Mr. Chair, the legislation that we're debating in Committee today, it only recommends appointments. It does nothing at all to take the politics out of appointments. Wouldn't you expect the commission and expect the commissioners to have the power to weed out every unqualified applicant and maybe even rank remaining applicants and maybe even actually make the appointment of the most qualified person, even if there is some kind of rubber-stamping, so to speak, that has to occur?

Obviously, the Liberals aren't prepared to give up that power. So don't say you're going to do it when the legislation you're bringing forward indicates otherwise. They want to have the final say. They want to make sure they don't end up with someone who may be very qualified but isn't capable of working well with them on their team of leaders.

There may indeed be real risks in relinquishing obligations and abdicating responsibilities to a commission that is not directly accountable to the people and in a position to be judged by the people. So these things all need to be considered.

We didn't relinquish that obligation or abdicate that responsibility. We made appointments – as you'll be reminded again during this debate – and we're prepared to defend them in this House and outside of this House as well, because we were elected to govern and the new administration has been elected to govern as well. It's the Liberals who said the process was wrong. It's the Liberals who set new expectations. It's the Liberals who said there must be an independent, merit-based, politically neutral appointments process.

All we're saying here today as we debate clause 1, Mr. Chair, is deliver on what you promised. The bill doesn't do that, so you can't have it both ways. Either it's independent or it's not; either it's meaningful change or it's not. If it's not, then isn't it really just a sham? That's the point my colleagues are trying to make as we have this opportunity to debate clause 1 today.

If you truly want independent appointments, then there are two separate issues that I think we need to consider. First of all, how independent will the commission gatekeepers actually be? Secondly, how much power will the commission gatekeepers actually have?

That first issue is critical. How will we ensure that the gatekeepers are indeed truly independent and neutral and qualified to make sound judgements about the qualifications of candidates for leadership posts in this province? Well, that depends entirely on who will be on the commission, on how they'll be appointed and how their independence will be assured.

Who are the gatekeepers? The bill outlines that and we'll get to that as debate continues. The bill outlines how the

commission will be appointed. I will save some of my comments on that for when we get to that particular clause.

We know that five members will be appointed by Cabinet and then be rubber-stamped by this House. So Cabinet will choose people and appoint them to this commission. Then government, with the majority it has in this House, will pass a resolution to appoint them.

The point I want to make, Mr. Chair, is that Cabinet will have the power to select those gatekeepers and that's interesting. How can the Liberals say the commission itself will be non-partisan if Cabinet is going to select them and then use its majority in this House to hire them? If the gatekeepers themselves are political appointees, then you can't stand here and argue that the process is non-partisan.

Mr. Chair, I have some more comments to make on clause 1, but I see my time is winding down. There are some broad concerns that we have and the debate on clause 1 gives us an opportunity to highlight those concerns before we get into the specific amendments that we intend to bring forward. I thank you once again for an opportunity to speak to this debate on clause 1 as part of Bill 1 this afternoon.

Thank you.

SOME HON. MEMBERS: Hear, hear!

CHAIR: The Chair recognizes the hon. the Minister of Education and Early Childhood Development.

MR. KIRBY: Thanks, Mr. Chair.

It's an honour and privilege for me to stand here and say just a few brief words about Bill 1, our signature piece of legislation. It is about doing things very differently, absolutely it is.

Look, we know that the Official Opposition doesn't like this way of doing things. They don't like this way of appointing people to public service positions or positions that are supposed to be based on some record of experience or education or qualification. For 12 years that ended in the fall, that's not the way the PC Party of Newfoundland and Labrador appointed people to lead and to have leadership roles in appointed bodies in Newfoundland and Labrador.

For the PC Party of Newfoundland and Labrador, for the previous administration, their idea of merit wasn't about having an application-based process where every Newfoundland and Labradorian who had qualifications for the position could apply. It wasn't a process where it would have short listed candidates for these positions selected through the Public Service Commission. It wasn't a process like that at all.

If you look at just the Newfoundland and Labrador Housing Corporation it seems to me that it was a process whereby your qualification to lead a public body was based on whether you were a past leader of the PC Party of Newfoundland and Labrador. So how many people in Newfoundland and Labrador has been the leader of the PC Party of Newfoundland and Labrador? Well, not very many, so not very many of those people in Newfoundland and Labrador were qualified according to the measure of merit that the previous administration used for public appointments. That they didn't qualify because of that.

There are other qualifications that the previous administration did use – I'll give them credit. Other qualifications were past candidate for the leadership of the PC Party, past minister in

the government of the PC Party, past executive member of the PC Party of Newfoundland and Labrador, past vice-president of the PC Party of Newfoundland and Labrador, past treasurer of the PC Party of Newfoundland and Labrador, past secretary of the PC Party of Newfoundland and Labrador, past member of the executive of the PC Party of Newfoundland and Labrador, and past president of the PC Party of Newfoundland and Labrador and I neglected to say past Member of the House of Assembly in the PC Party caucus. So those were basically most of the orders of merit that were employed by the previous administration.

MR. KENT: (Inaudible).

MR. KIRBY: I say to the Member for Mount Pearl North, you had an opportunity to say your peace, now let me have an opportunity to contribute to the debate as well. He's still chirping over there, I'm not sure why. I'm just trying to have a debate and counter your argument and if you don't like what I have to say I encourage you to stand up afterwards and counter it, but in an orderly way I say.

If you look at the appointments made by the previous administration, by and large one of the most significant factors in selecting people to lead public bodies, to receive significant remuneration, I believe the Chair of the Newfoundland and Labrador Housing Corporation in particular makes something in the order of \$180,000 a year. That's on the sunshine list.

If you go to the sunshine list and you look at the individuals who were selected through the independent process employed by the previous administration, by and large, some affiliation, either Leader of the PC Party, candidate for the leadership of the PC Party, a member of their caucus, somebody who is involved with their executive, some political activist who was involved, that was how Newfoundlanders and Labradorians were judged when it came to being able to have an opportunity to use their skills, their talent, their education, their accumulated ability. That's how the previous administration used – that's how they appointed people to public bodies.

You can hear them all over there. They're all chirping over there now, Mr. Chair, because of course they don't like to hear this. This, in fact, is the essence of the truth.

What we're trying to do here is we're trying to move the province away from a process and say, well, it's not perfect. Well, I'm not sure what is perfect but I'm pretty sure having a process whereby positions that are open are publicly advertised, that people can apply through public competition, that their credentials are judged by the Public Service Commission, and there's a short list provided from that. That's pretty good. That's basically how all job processes work. There's a short list produced.

The Opposition was saying before the Easter break – so months ago or weeks ago when they got this legislation, because they had it the whole time. I don't know why they didn't work on their amendments prior to tabling them here today, but that's their decision. They had this, and they were saying, why wouldn't you make this short list of three people public? Why would anybody want to subject themselves to a process where they'd basically be more or less publicly ostracized?

When you apply for a job, do they go and post it on the bulletin board, here's the unsuccessful applicant for everybody to see? They want it posted in the newspaper. Why would anybody in their right mind ever want to subject

themselves to that sort of thing? It's absolutely nonsensical when they get to it.

Now, the other thing I find extremely interesting here today is that we have the Member for Mount Pearl North and the Member for Cape St. Francis, and other Members over there talking about how this should go to an all-party committee. This should go to some all-party legislative committee. The sort of all-party legislative committee that for a dozen years in Newfoundland and Labrador, that crowd denied the House of Assembly to have.

There was one all-party committee that was created, or two all-party committees. There was fisheries; there was the mental health. At least in the last four years in the sitting of the House of Assembly, I don't recall any other ones. That was an initiative of the NDP, certainly not an initiative of the government. They were quite prepared to vote against that in Private Members' Day one day until they buckled under the weight of public opinion and decided to strike the all-party committee.

The Member for Mount Pearl North, when he was the Minister of Health he stood there. One hour he spoke against the bill, the next hour he spoke for it.

The other thing the Member talked about in terms of an all-party committee – the Member did talk about sending it to an all-party committee. That's what it was suggested that Muskrat Falls go to, an all-party committee. There was no all-party committee. They actually refused to let the public utilities board do its job and review it. So it's certainly not going to any all-party committee. They thought the debate on Muskrat Falls was to just have it in here on Private Members' Day.

At least Bill 1, the bill to create the Independent Appointments Commission to ensure that we move away from the political cronyism of the past; at least the bill is being debated in the debate for legislation in the House of Assembly. For Muskrat Falls, there was no all-party committee. They just went in here and had a three-hour debate and had Private Members' Day and that was all it, more or less. There was no all-party committee for that.

There was no all-party committee to create Bill 29 and there was no all-party committee to repeal Bill 29. The issues that attracted the most attention in the previous sitting of the Legislature, almost all of the Members with the exception of the Member for CBS, all those Members were there. I did not hear one time any of them uttering the words all-party committee, not at all. Never heard a single word of that uttered.

In the meantime, like I said, for all of the most significant or most of the most significant positions that were to be had for people to fill for public bodies in this province were traded as if they were pieces on a political chessboard. If you did not have affiliation with the PC Party of Newfoundland and Labrador, then you could count out any opportunity that you would have to lead public agencies in this province, and I challenge the Members to go through.

You will find the odd person appointed through merit. Certainly there were some; there's no question about. By and large, you go and look especially at the positions with the most significant remuneration involved and they inevitably involve people who ran for the PC leadership, led the PC Party, sat in the PC caucus, were ministers in the PC government, were a president or some other position on the PC provincial executive; or were in some ways connected through the PC Party as somebody who was an activist

politically with them on election campaigns; or people who contributed significant sums of money to their past election campaigns. That is what the Members opposite viewed as a merit-based process. That is not a merit-based process. That is a highly politicized way to do political appointments.

We made a commitment in the election to stop doing that, and this is the way that we're challenging to do it. If the Members have better ideas, the legislation is here and if we have to stay here till 4 tomorrow morning and debate the amendments they're bringing forward, then that's what we'll do.

Thank you.

SOME HON. MEMBERS: Hear, hear!

CHAIR: The Chair recognizes the hon. the Member for the District of Conception Bay South.

MR. PETTEN: Thank you, Mr. Speaker.

I find it a bit interesting getting up and as the hon. Member opposite correctly pointed out, you're right; I wasn't part of the previous administration and some of the decisions.

You need to base facts on facts. It's good and it sounds good, and again it's a bit of theatre. The Minister of Education is great on theatre as we've seen in the past. There's something about the camera coming on. He's pretty good in front of a camera, but answering a phone call or an email sometimes can be challenging.

MR. KIRBY: That's absolutely not true. How many emails (inaudible)?

CHAIR: Order, please!

MR. PETTEN: Mr. Chair, I gave him the respect and listened to him, so I hope he gives it to me in turn.

CHAIR: Order, please!

I would remind the hon. Member that we are debating Bill 1.

MR. PETTEN: I realize that, Mr. Chair.

You mentioned about appointments that were made by this former government and they're merit based, and some of them, if you weren't a supporter of the party, you never got appointed. I find it interesting when you look at – we have, for instance, former Liberal Cabinet ministers appointed to the Chief Electoral Office. We had someone that headed up the Bill 29 review. The Minister of Finance and the Minister of Transportation and Works were on the Nalcor board. We had another former high-profile Liberal who was chair of Nalcor – or, yes, chair of the Nalcor board or Hydro.

So I don't think that's accurate. They're obviously not PC members. They were appointed because the government of the day, which was the former government, felt that these people qualified to do the job. So there was some merit gone into it. As for making those comments about you had to be – that's not totally accurate.

We can go back to the former previous Liberal administrations, as I said earlier, this has gone on for a long time how these appointments happened to be made. You're moving forward from – 8 o'clock November 30 when the ballots were in and I guess the verdict was in and this government that won power, as my colleague for Mount Pearl North rightly said, this was their signature bill. This was one

at the top of the red book of commitments, you taking the policy out of appointments.

So from that minute on, this was nothing to do with the former administration, like I said, no matter what stripe you were. On a go-forward basis to this new administration, this was their watershed bill, whatever you want to call it. I think the Member for Mount Pearl said a keystone bill. It was your bill. It was what you had prescribed to; this is what you had told the voters.

We've said it many times and I'll repeat it again, it's not that we're opposed to an Independent Appointments Commission, not at all. We do have exceptions to how the bill is presented. Our amendments are addressing our concerns, so we'll see how that translates.

When you're on the campaign trail, it always sounds good to bring up stuff that – because this has been an issue. This is not the first time we've mentioned it, as you've heard in the public. There have been criticisms of governments over who you appoint, who gets this job, who gets that job, who's head of this board and who's head of that board.

I'd like to think over the years – I'll give the governing party from their former days too. A lot of those appointments are valid appointments. I think it's an unfair characterization to say that if you're not a supporter of either party – as I listed off there, the former government, the PC Party appointed some well-known Liberals. They felt they were very capable and they got the appointments due to some merit.

It's kind of unfair to tag someone because they're qualified and they're appointed by a sitting government that they're automatically supporters of that government. No doubt, we don't live in glass houses. I do understand that has happened in the past and that's a reality, but not in its entirety.

It sounds great when you're talking to the camera and people are listening. It plays well, I have to say, but let's be fair and compare apples to apples. It's not a fair comparison. There is some truth but it's not all accurate. There are some on both sides. I just think that's worth being clarified.

One other thing I note, and I find it kind of amusing sometimes. We're out in our districts talking to constituents all the time about their issues and a lot of people have said over time: What's going on out there? This government seems like they were – everyone knew they were going in power. For the last year-and-a-half everyone had them seen as being the government in waiting, but it seems like they got in and there's no plan.

Well, this was in the front of their book. This was one of their centrepieces. It's almost like, it sounds good, it plays well, we'll put it there. All of the sudden, November 30 ballots were counted and you go: Uh-oh, we're in power. That's the first bill we have to deliver on. Let's get something on paper. Let's get it out there. Let's get it on the books, but there was not a lot of thought went into it, Mr. Chair. We've all said that, and my colleagues have said it here today.

When you look at the bill, these amendments we're presenting – if anyone across the way wanted to look at these amendments, they're not earth-shattering. Everyone can twist it which way they want, but these amendments are made to make this bill stronger, for the betterment. The intent of this bill is good, but right now the way it looks is there are a lot of loopholes.

You bring in an Independent Appointments Commission, how do you go about questioning the commission about its

recommendations? They make these recommendations, they send them to the Cabinet room, and as I said when I spoke earlier today, once it leaves any committee or any recommendations in any department and it goes in the Cabinet room, what comes out of the Cabinet room and what goes in sometimes are totally different things. That's what they're elected to do. They're appointed to Cabinet to make those decisions, and a lot of them are tough decisions.

When you have officials who are working on – no different than this bill. If you have officials working on stuff, they push it up. They give it to the minister who presents it in the Cabinet room. When it comes back out, it cannot be remotely – other than the name or the number of the bill, or the number of the document, that may be all the same but when it gets around a table of 12, 13 people, things happen to change.

Again, it's smoke and mirrors or window dressing, whatever you want to call it. It's a bill that sounds good, looks good but when you pull back the layers it's not what it appears. You are going to have this so-called Independent Appointments Commission that is going to be appointed by government. It's going to sit down, it's going to take recommendations. Fair enough. You can send in a list of people who want to apply. You could send in hundreds or whatever, this commission will then decide who they will recommend; who they think is the best ones. They will send up a list of three.

Then government gets up: we don't like any of these people. Kaboom! We don't like it. We're going to pick this person. Then there is no reporting mechanism to tell anyone they changed their mind. That's not the spirit, that's not independent. That's not the spirit of this bill in my opinion. If the government were sincere and wanted to take the politics out of appointments and have an open process, I say I applaud them.

I need to go back. I want to go back, because one thing I sit here and I listen to – and we hear it on a daily basis. I'm hearing it again today on Bill 1. It's what you done. It's what this one done. To me that's amateur hour, Mr. Chair.

We all know this government opposite are the ones in power as of November 30. We're the previous ones. We done, this government I should say – the previous government done no different than any other government done in generations. This government took it upon themselves to bring out this centrepiece of legislation. They are going to make things different, and I commend them. We all commend them, but don't play those silly games and looking at us and saying how ye done it differently. That's not what the public want to hear. I hear it on emails. They're sick of the blame game.

They want this government that was elected to make decisions, and make decisions that make sense. We're meant to be a parliament – we're Opposition, we're supposed to be that opposing voice to say we have amendments. Why don't we try to strengthen this legislation. That is democracy.

So pointing the finger across the way I know plays – again, I'll say it plays well publicly. I understand where it's coming from but it's not going to make any bill or any legislation or any matter in this House any stronger if that's what you get up and hear.

Again, this was the legislation that was brought in by this government. It's Bill 1, and it's one that they should step up to the plate and honour and bring in amendments, make it a stronger piece of legislation. Do you know what? If they do all that, Mr. Chair, that's something they could probably be proud of. Instead, we have a bill full of loopholes. They need

to be stronger. Stand up, tell the people – the people are asking them and we're asking them again. We can treat this like they treat everything else and we can just say we know better than ye. As my colleague for Cape St. Francis – everyone knows better than us. Well, fair enough. If you do, listen to the people.

These amendments, I think most people would say they make sense. I encourage government to stand with us or at least talk about our amendments.

Thank you.

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

MR. KENT: Thank you, Mr. Chair.

It's been interesting to see where the debate has gone over the last little while. I thank the Member for Conception Bay South for adding to the debate. I do need to pick up on a couple of the comments that the Education Minister made. He seems a little riled up, so hopefully he'll simmer down a little bit as the evening goes on.

He talked about a sunshine list. Mr. Chair, the sunshine list is in the draft Open Government Action Plan. There have been lots of public calls for a sunshine list –

CHAIR: I remind the hon. Member that we are speaking to Bill 1.

MR. KENT: We are, and the Education Minister referenced it in his comments on Bill 1. I'd encourage government to get on with it and do it, if you're going to reference it in debate here in this House of Assembly.

There was also lots of commentary about past presidents of the PC Party, which is really entertaining when it's coming from the past president of the NDP. There is something humorous about that. It's good to have a couple of light moments during a rather serious debate.

The debate is not about past appointments or past presidents of parties. The point is here that the Liberals, the current government, promised a non-political process and now they're not delivering on it. It's the latest broken promise by this administration.

This legislation is a joke, Mr. Chair. It's severely flawed. We're going to propose a number of amendments to try and make it a little bit better, but it's still flawed. Here we have another example, a sad example of this Liberal government saying one thing and then doing something completely different. That's what we see here in Bill 1. That seems to be the Liberal way of doing things. It's unfortunate. I think people are on to it. They see through it. We do have to stand and challenge that.

Let me talk a little bit about some of the issues around openness and accountability as it relates to the bill. We have many concerns about the proposed Appointments Commission and that is why we're advocating for changes today.

Just to give you an example, government appointees must swear an oath or make an affirmation to be impartial. So maybe government should make changes to Bill 1 to require the appointments commissioners to swear an oath, or make an affirmation to be impartial. It's a small step, but it's an example of something that can be done to make the bill a little bit better.

Bill 1 will require the Appointments Commission, in consultation with the Public Service Commission, to develop a merit-based process to guide them in their work. That means that they're going to have to come up with a definition of merit for the purposes of the act, and a way to measure a merit as well.

So maybe government should require, in this legislation, annual reviews to determine the merit principle was actually applied in every case that an appointment was made. And maybe that review should be published in the interest of openness, transparency and accountability.

One major concern that I know people have about this legislation is that Bill 1 allows the Cabinet to ignore the names that are submitted by the Appointments Commission and appoint somebody else in secrecy. So if you're going to ignore the recommended candidates list, I think that is something that should be disclosed. Maybe a change can be made to require Cabinet to make a public disclosure every time the person that they appoint isn't on the list of candidates recommended by the commission.

I'm sure we'll hear it said well, there are privacy issues around that. Well, there'd be no need to reveal who the commission recommended, only that Cabinet accepted none of them and made a different appointment.

Bill 1 also allows Cabinet to bypass their Appointments Commission whenever circumstances are deemed to be urgent or extenuating. So if they're going to do that, and it's clear that will happen because it's been referenced several times by the Premier and by ministers, would government consider requiring Cabinet to notify the public immediately whenever it bypasses the Appointments Commission to make an appointment in such circumstances?

So these are ideas that might make the process a little bit more legitimate and sensible, as opposed to simply saying you're going to do one thing and then doing something completely different.

There's going to be a five-year statutory review of this act. I think the results of that review should be publicly released, not just simply gone to Cabinet for consideration, but send it to the Speaker and have the Speaker release it. Bill 1 calls for that review every five years and says that it will be sent to Cabinet. So if you're serious about being open and transparent and impartial and independent, then have that sent to the Speaker of the House for public release instead of to a secret Cabinet review. Those are just examples of things that can be done to make the legislation, potentially, a bit better.

In my previous time speaking, I talked about some of the challenges with the bill, as proposed, and how if the gatekeepers themselves are political appointees, then the process is anything but non-partisan.

What happens if somebody leaves the commission while the House isn't in session? That is addressed elsewhere in the legislation and we'll get to that during debate, but one concern I have is that Cabinet can appoint a replacement commissioner and then bring that to the House within 10 sitting days of the next sitting of the House. If it is several months before the House sits, months could pass without any disclosure of that.

So it is another example of where this legislation is severely flawed because at certain times of the year that could be a very long time. Cabinet could fill a vacancy in June, if the

House wasn't open, and not have it confirmed here in the Legislature until November, potentially. Or fill a vacancy at Christmastime and not have it confirmed until probably close to April. These are the kind of issues that exist with this flawed piece of legislation.

How are these gatekeepers going to be held to account? Well, if we don't like a Cabinet appointment, we can question the Cabinet ministers today; but, from now on, the Cabinet is simply going to say, well, the commission recommended the person. Therefore, they won't take responsibility.

How do we question the commission about its recommendations? It's one step removed from scrutiny and from accountability, but the commission, in theory, could be just as partisan as the Cabinet, since the Cabinet selected the members and used its majority here in the House to hire them. There's a real challenge with that as well. What all that means is that this new process will be less accountable than the process that exists today. I think there's some irony in that.

Not every appointment for every entity listed in the act will actually go to the commission for review. I think that needs to be highlighted while we're debating clause 1 here as well. That's really interesting because some of the appointments will sidestep the commission's scrutiny. That is a real concern.

A Cabinet minister or Cabinet as a whole can say, well, the situation is urgent or circumstances are extenuating and skip the entire commission process. When will government use that escape clause? Would this be the escape clause that government would have used to justify some of the appointments they've already made?

I'm not going to get into names, as some people have done here this afternoon, not at this point during the debate. I'd rather stay focused on the bill and on the intent of this legislation and some of the issues with the legislation. There have been political appointments made already by this administration which needs to be considered as we're going through this debate as well.

It will be interesting to see when government chooses to argue that circumstances are urgent or extenuating. Remember that these appointments are for key posts in agencies, commissions and Crown corporations so they're vital, and there's always going to be some urgency around filling them.

Let's suppose the government wants to sidestep the commission. They could justify moving ahead and appointing at will, just as governments have done in the past, simply by saying the situation is urgent or extenuating. This is another example of problems we see with this legislation.

I see my time is winding down, Mr. Chair. We do have major concerns. We will bring forward amendments that will hopefully improve the situation, but it won't change the fact that this legislation is very flawed and completely inconsistent with the election promise that the Liberals made back in November. Another broken promise by this administration and they're only five months in.

SOME HON. MEMBERS: Hear, hear!

* * *

CHAIR (Lane): Order, please!

We are debating clause 1 in Bill 1.

A bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments." (Bill 1).

CHAIR: The Chair recognizes the hon. the Member for the District of Conception Bay East – Bell Island.

SOME HON. MEMBERS: Hear, hear!

MR. BRAZIL: Thank you, Mr. Chair.

It's indeed an honour to stand in his hon. House and speak to Bill 1, the *Independent Appointments Commission Act*. Something that I support, I wholeheartedly support the concept. I've gone through the bill and I see a number of good items there and good clauses in it.

I do have some challenges around it and, no doubt, over the next number of hours, we'll have some extreme debate around where there are some loopholes there or where there are some nuances that need to be improved on and how we can do this so, at the end of the day, the people in this province are confident that those individuals who get appointed to boards and agencies and get positions in government where they have influence and have a responsible position and a responsible duty to fulfill for the people, will actually be the best people that we could put in place.

I just want to note again for the people who may have joined us a little bit later this evening as they're getting home for their supper hour, the bill would enact an Independent Appointments Commission. I have to give credit. Back when we were gearing ourselves up for the provincial election, back in late October and November, and the Liberal Party had put out their red book, a very inclusive book, it had outlined exactly what they stood for, what their key objectives would be as a government if they won the government, what they would move forward on, and exactly what the people of Newfoundland and Labrador would expect under their regime.

What I did note, I did see an Independent Appointments Commission. I said, interesting, so I started to read, particularly in the red book. As I read it, I said I like the concept here; I like where they're going with this. I think it's something that's probably been overdue. There is no doubt that my years as a civil servant in various administrations, I've had ministers come to me and say: David, can you get some resumes for this particular committee? Can you have a look at these individuals? We need this filled out. Then you'd submit it to the respective minister, and then you never really knew how the decisions were made because some of the names would be appointed afterwards I hadn't heard about. There would be people who I thought would probably be the seventh or eighth of the three-panel committee that would have been selected, so no real understanding exactly what the merits were, what it was based on.

When I went out to recruit people, I went out based on the knowledge I had of people's experience within whatever role it may have been, whatever that particular committee, their expertise, what they'd done in a previous life, their commitment to fulfilling whatever that responsibility may be as an appointee to a commission or a board for government.

A little caught off guard by it – and again, this is the Liberal administration, the PC administration. I've had the privilege of referring people and in some cases, a number of cases, the people I referred or had their resumes and had them fill out the appointment notice got selected. So I felt this would

be another good step of cleaning that process up, making it more fluent, but particularly, they caught me, they had me when they kept saying, we want to restore openness, transparency and accountability. I felt well, what a great way to do it. This could perhaps be the best act you could put in place that would at least start the whole process of more accountability.

We had started it as an administration about openness and accountability. We had done that. We had set up a whole line department that would be responsible for that. We brought in support staff. We worked with agencies outside of government to ensure information was distributed to people in a timely fashion and that the information was relevant to what people were asking.

I was in to the point of saying: I'm going to follow this through and see where it goes. So I read a little bit more about what their concept was. I said: Okay, I could support something like that. If they form the government, when we get to a point in the House of Assembly, if I'm fortunate enough to be elected, then I look forward to seeing where they're going with this.

Sure enough, obviously, we know the outcome of the election. As we got into it, the Throne Speech came down. At the same time it was noted in the Throne Speech and I said: Good, they're following through. Bill 1, accountability, transparency and openness and a better process, a fairer process, a more inclusive process for selecting those people who are going to represent the needs of the people in this province.

So again I said: I'm in. I'm looking forward to debating it. I'm looking forward to supporting it. I'm still looking to supporting it. I will say that unequivocally right now, the concept of Bill 1. I'm looking forward to supporting a number of things that are in the proposed bill by the Liberal government here, but I'm particularly looking at supporting an inclusive, comprehensive bill that has amendments that are being put forward by our party and by the Third Party. I would hope the Members in the Liberal government would see the merits of it and see that it takes what they are proposing and puts it to the next level, where everybody can be happy with what it represents and it will meet their needs. It will particularly fulfill what they said in their red book when they ran.

Again, in their Throne Speech – I give credit, the Throne Speech was read out by the Lieutenant Governor and it was again reiterating a commitment to openness and transparency, and the government is committed to that. It would be an Independent Appointments Commission requiring a merit-based process for various appointments.

So who could argue with merit-based? Obviously, it's a simple process that outlines, you go to the market, you go to the general public, you go to people who have an expertise in a certain area, you bring in as many as possible and you evaluate them based on their merits, their experience, their education, what they worked at previously and what their beliefs are. That would make it much more efficient for how we run things in government. It was never about remuneration or any of these things. It was about people putting their names forward because they wanted to do their part to better serve the people of the province. So I said: This is great. I look forward to it. I can't wait for it to get to the House.

We were only here a couple days and, no doubt, Bill 1 is tabled in the House of Assembly and I looked forward to it. I said: Great, I took it. It's one of the more comprehensive

bills. It does outline every segment of it and every clause. I went through it. I read it. I took a full day and went through it. I noted some things. There were a number of things there I liked. I thought it went where it needed to go and it fulfilled what they had said. There was a number of things there I thought were grey areas, that were left to interpretation and worried me a little bit, and then there were some things that I said this is about don't do as I do, do as I say. It's not going to where the intent of what they said in the red book, what they said in their Throne Speech and what they were touting when they were first presenting the bill. So I had a few concerns about that.

No doubt, us as a caucus – you may notice there was no notice about it here in the last month. We've been discussing this over the last period of time about what kind of amendments should be added. We all agree with the concept of Bill 1. We see the merits of it. So what kind of amendments would be necessary to fulfill what the Liberal Party wanted to do and what we would support? But they had to be the ones that made sense. They had to be the ones that filled the gaps in this particular bill.

As the evening goes on and we get into the next number of days, they'll become more evident and we'll have a good debate around that. You'll see the merits and the argument as to why we feel this would enhance Bill 1 and would be something that would be positive.

The challenge I had when I went through it was saying we're segregating this group over here – well, they're not important to us. We'll let the commission identify the individual we wanted appointed and then they can just go through the process. The other ones, the ones that have more of a higher level of responsibility or may be responsible for change of policy or driving our economy, we're going to hold them. We're not going to do it just on a merit based, we're going to be able to keep them to ourselves too and we're going to get a set of recommendations. Then we're going to decide who we think, from our perspective, would be the best.

Then that's when I started to worry about the transparency. You had me up to that point, the transparency and the accountability. You lost it on that part of it. There are a number of things here that open up the process where you get to a point where it's transparent, it's open, there's a proper fluent flow to it. You'll no doubt be able to acknowledge the best people for any position here and you'd have a better opportunity to serve the people of this province. Then, you have the clause around – no, no, Cabinet.

There is no doubt Cabinet has to sign off on any positions. I agree with that. I think that makes sense. Cabinet are the entity that represents the government who are elected to govern. I have no problems with that. But you can't say we're going to have it merit based and you'll ask the commission – and first of all, you're appointing that independent commission itself and I've got some challenges around that, the fairness on how that process works and keeping it non-political.

That's the thing that the government stood on. This was going to be non-political. You can't call it non-political if the political people are the ones making the appointment of the first people, who are then going to make the recommendations to the rest of the politicians, who are then going to decide whether or not publicly we tell you who we recommended and who we gave the position to may or may not have been even the group that the appointees put forward to us.

So it becomes very confusing. It takes away from the intent of what is potentially a great piece of legislation and could be an earmark for the Liberal government as your primary bill. But to do that, you've got to be open to make sure it's done right. As I said, it's not just about do as I do; it's about do as I say. And at the end of the day, it has to be the fact that the best people will be selected through the fairest process and the most transparent and open concept.

The best way to do that is have an open debate about the amendments we're putting forward and then let's move it forward so we get the best people for the best job to serve people.

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

MR. KENT: Thank you, Mr. Chair.

It's been a good discussion this afternoon. I don't have a lot more to say about clause 1, so this will perhaps be the last time I'll speak to clause 1 before we move on to other sections of the bill. I've outlined some of the loopholes and the concerns we have generally with the bill. Clause 1 gives us an opportunity in Committee to address some of that.

There is a reporting mechanism in the bill, and we'll get to that as we get further into debate. But I'm left wondering what the reporting mechanism actually achieves. So it's hardly going to be a secret if an appointment is made to a senior position. We're going to know about it long before any exemptions are reported in this House. I think we need to strengthen those reporting mechanisms and make sure that when Cabinet makes exceptions to this process that it's disclosed quickly, very quickly, and not just when the House of Assembly is open.

I think, as I said the last time I spoke, we'll hear lots about urgent and extenuating circumstances. So we just want to make the process better.

There's another way the Cabinet can make exceptions to the independent appointments process. The act includes a list, a schedule, of those entities to which the process applies, but it says that –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KENT: Later we'll talk about a provision in the bill where Cabinet can amend that schedule whenever it wants when the House isn't sitting. Cabinet can remove an entity from the list and that entity will remain removed until the end of the next sitting. So that's a concern. It's another huge loophole that we feel we need to try and address.

I also am left wondering whether these gatekeepers that will be appointed have any real power. We've seen several ways the government can sidestep the commission's process for appointments, but what about the matters that the gatekeepers actually do see? How much power will they actually have?

As I went through the bill, much like my colleague for Conception Bay East – Bell Island did, I noted that there are some concerns in that regard as well because a Cabinet minister or the Cabinet itself will have the unfettered

authority to appoint people at their own discretion, which is a real challenge. If you say you're going to have an Independent Appointments Commission, yet Cabinet and ministers can simply continue to appoint whoever they wish, then it's just smoke and mirrors. It makes the whole process essentially meaningless.

The Cabinet or a minister can ignore completely and continue to do things the way they've traditionally been done. Does that meet the higher standard that the Liberals have set? It definitely doesn't, Mr. Chair.

We've seen already as we've gone through this bill, and now I presume shortly we'll go through in detail clause by clause, this new commission has no teeth. Even when it's asked to make a decision, and there will be times when Cabinet will say there is urgent or extenuating circumstances to bypass the process, there's some real concern about the Independent Appointments Commission's ability to do anything.

Now the bill also amends the *Public Service Commission Act* to give them a role in this process. We'll talk about that later. So I won't get into that now, but there's an escape clause there as well. That is a real concern. It has to be a real concern for all of us.

Mr. Chair, I just want to touch on the cost issue as well. It has been said at some point this afternoon that a commissioner won't be remunerated for their duties under the act but they'll be reimbursed for their expenses in accordance with Treasury Board guidelines. So I just want to highlight that there will be other costs associated with administering this commission. While government says there won't be, I just find that hard to believe given the amount of work we are potentially talking about.

As I conclude my comments on clause 1, this process will be a way of gathering resumes from people. No doubt about it, but will the recommendations of the commission place any sort of obligation or expectation on Cabinet? No. That is one of the fundamental problems with Bill 1. It would be better to call this an advisory board or a review board rather than an Independent Appointments Commission because it isn't independent and it can't make appointments.

It's not an independent process for making appointments. It's a process for sometimes submitting names and non-binding recommendations to Cabinet and the Cabinet will retain sole authority for making appointments at its own discretion. So nothing is changing, Mr. Chair.

There's a section of the bill that makes it clear the limitations of this process. The commission is an independent, non-partisan body whose mandate is to provide non-binding recommendations.

As I conclude my comments here on clause 1, the question that needs to be asked: Does this meet the test of the promise in the 2015 red book? Does this bill take the politics out of government appointments by making sure the most qualified person gets the job? Absolutely not, Mr. Chair, it makes sure of nothing. It takes the politics out of nothing. It changes nothing.

That's where it fails because it's simply not good enough for this new administration to say they're going to change things and then change nothing. They raised expectations in their red book, and with this bill they raised expectations even further and said things would be different. By being no different, this initiative fails. The bill is flawed. The

Independent Appointments Commission is just such a flawed concept based on what's outlined here in this bill.

I look forward to bringing forward amendments that will hopefully make it a bit better. I still believe the whole thing should be referred to a committee for further work, so hopefully we could come back to the House with a piece of legislation that actually made sense.

I thank you for listening, Mr. Chair. It's been helpful to listen to the clause 1 debate. I look forward to continuing to debate the bill as it progresses through Committee.

Thank you.

CHAIR: Seeing no further speakers, shall clause 1 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Carried.

On motion, clause 1 carried.

CLERK: Clause 2.

CHAIR: Shall clause 2 carry?

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

MR. KENT: Thank you, Mr. Chair.

We're now debating clause 2 of Bill 1. Clause 2 defines certain terms in the bill. While we debate clause 2, we will be introducing an amendment to paragraph (c) of clause 2 which defines the merit-based process. Having a process that's merit based makes really good sense.

We're going to be proposing this amendment – and I'm providing a little bit of background so that people will have an appreciation of the amendment that we're going to bring forward and why we're bringing it forward. We're actually going to propose an amendment here because of a separate amendment that we intend to bring to subclause 6(3) in a few minutes. Let me briefly explain why.

Paragraph (c) here defines the merit-based process as, "a process established by the commission in consultation with the Public Service Commission for the purpose of executing their respective duties under this Act." So that's good. That sounds good, Mr. Chair.

Our amendment will add the following words after "Act," and here's what we're thinking: "and also includes any process the Public Service Commission uses to recommend members of the commission."

Then the amended paragraph (c) would read: "merit-based process" means a process established by the commission in consultation with the Public Service Commission for the purpose of executing their respective duties under this Act and also includes any process the Public Service Commission uses to recommend members of the commission.

Why do we need this? Well, because when we get to subclause 6(3) we'll be proposing the very first Independent Appointments Commission should also be appointed through a merit-based process. Obviously, the Independent Appointments Commission cannot define that process because it won't exist.

The amendment that I'm about to propose allows for two merit-based processes. One, that the commission defines with the Public Service Commission for future appointments, and one for the very first Independent Appointments Commission.

Mr. Chair, this is my first time proposing an amendment in the House so I may need some guidance from the Table, but let's give it a whirl.

I'm proposing an amendment to clause 2, paragraph (c) here in Committee of the Whole. I'm moving this amendment, seconded by the Member for Conception Bay East – Bell Island.

The bill is amended at paragraph (c) of clause 2 by adding immediately after the word "Act" the words "and also includes any process the Public Service Commission uses to recommend members of the commission."

Again, Mr. Chair, I submit this amendment, moved by me, as the Member for Mount Pearl North, and seconded by the Member for Conception Bay East – Bell Island.

CHAIR: The Chair will take a brief recess to consider the Member's amendment.

Recess

CHAIR: Order, please!

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

On motion, clause 2 carried.

CLERK: Clause 3.

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

CLERK: Clauses 3 to 5 inclusive.

CHAIR: Shall clauses 3 to 5 inclusive carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clauses 3 through 5 carried.

CLERK: Clause 6.

CHAIR: Shall clause 6 carry?

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

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

I'm happy to stand again and speak to this bill and speak especially to clause 6. Clause 6 is an important clause because it talks about the commission and the way in which the commission is established. There are eight sections to the clause. Most of them I agree with. I will be speaking to one that I will want to make a change to but before bringing forth the amendment, I'd like to make some comments.

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

AN HON. MEMBER: Oh, oh!

CHAIR: Order, please!

MS. MICHAEL: – whose mandate is to provide non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process." And "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly."

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

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

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

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

So that's why in sections 5 and 23 it actually says – I'll get section 5 and read it because I think it's important. Section 5 starts off talking about the appointments. It says:

"Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4" – that's recommendations that come from the commission – "shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority."

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

If I want to have a feeling of security that the recommendations that are going to be made to government are recommendations that are non-partisan and recommendations that are free of bias, then I'm going to want a commission that doesn't have a sense of obligation to the governing body who appointed it. I think that is really basic.

Making the appointment system of the commission non-partisan becomes extremely important in this whole process. Having the commission itself appointed by government is enough to make me say, I don't know if I can vote for this act. I haven't got a decision made yet. I want to go through the process. I want to go through the amendments. I want to see if government is going to listen.

The whole process, because of that, is flawed right from the beginning because it isn't the commission, number one, making appointments. That's number one, but I understand why the government ultimately has to be able to say no, but I don't understand government saying the commission should be set up the way that it's being set up.

It's for that reason that I make the following amendment, Mr. Chair. I would like to see subclause 6(3) of the bill amended by adding immediately after the word "members" the words "selected by an all-party committee of the House of Assembly and".

That means we would end up with section 6(3) reading: The commission shall consist of five members selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly. I have copies of this amendment for the Table.

CHAIR: We will take another brief recess to consider the amendment.

CHAIR (Lane): Order, please!

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

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: Carried.

On motion, clause 2 carried.

CLERK (Ms. Barnes): Clause 3.

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

CLERK: Clauses 3 to 5 inclusive.

CHAIR: Shall clauses 3 to 5 inclusive carry?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: Carried.

On motion, clauses 3 through 5 carried.

CLERK: Clause 6.

CHAIR: Shall clause 6 carry?

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

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

I'm happy to stand again and speak to this bill, and speak especially to clause 6. Clause 6 is an important clause because it talks about the commission and the way in which the commission is established. There are eight sections to the clause, and most of them I agree with. I will be speaking to one that I will want to make a change to, but before bringing forth the amendment I'd like to make some comments.

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

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

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

So when I looked at that I said, well, this is a real problem, because if you have a commission that's put in place by government without even any consultation – and there isn't any consultation. When you read section 6 and read through

it, it doesn't say there'll be consultation, there will be meetings, there'll be anything; it's just Lieutenant Governor in Council shall be the one who shall put the commission in place and the Lieutenant Governor in Council shall designate one of the members of the commission to be chairperson.

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

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

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

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

If I want to have a feeling of security that the recommendations that are going to be made to government are recommendations that are non-partisan and recommendations that are free of bias, then I'm going to want a commission that doesn't have a sense of obligation to the governing body who appointed it. I think that is really basic.

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

It's for that reason that I make the following amendment, Mr. Chair. I would like to see subclause 6(3) of the bill amended by adding immediately after the word "members" the words "selected by an all-party committee of the House of Assembly

and." That means we would end up with section 6(3) reading: The commission shall consist of five members selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly.

I have copies of this amendment for the Table.

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

Recess

CHAIR: Order, please!

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

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

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

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

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

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

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

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

It's an excellent example of what all-party committees can do, that we're all there with a common purpose. That's what we did; we came to a common agreement of what the ultimate goal of the committee was. Then we had to fine-

tune, okay, there are some details around this, how do we get at it. We're still working. We still have a couple of more days to make our final decisions, but it's a real process that I think all of us who are taking part in are very, very pleased with.

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

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

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

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

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

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

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

have broad experience in knowing what it is you want in the positions that government is filling. So we all would want the same thing.

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

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

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

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

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

Thank you very much, Mr. Chair.

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

MR. JOYCE: Thank you, Mr. Chair.

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

Mr. Chair, this bill was brought forth to try to put some independence and bring the best people forward possible. I'm not going to get into any political debate here about what happened in the past. I'm just going to talk about the bill itself.

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

Mr. Chair, part of this bill, and this is the part that I guess people just don't want to understand or don't feel it's the right way to do it, is when we bring forward the names for an independent committee, they've got to be voted in this House of Assembly. So the names that are going to be brought

forward for this committee are going to be laid on the table in front of you. Every person in this House has an opportunity to say aye or nay to that person if they feel they're not qualified or are going to show some bias.

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

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

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

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

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

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

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

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

AN HON. MEMBER: (Inaudible.)

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

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

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

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

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

AN HON. MEMBER: Madam Chair.

MR. JOYCE: Pardon me?

AN HON. MEMBER: Madam Chair.

MR. JOYCE: Madam Chair, yes.

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

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

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

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

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

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

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

CHAIR (Dempster): Order, please!

I remind the hon. Member his time is expired.

MR. JOYCE: Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

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

All an all-party committee is going to do – I may have somebody that would be great on the commission that you didn't think of. Again, I mentioned it earlier today, every committee that I ever served on, I always liked to see youth

on it because they bring a different perspective than what other people have. Madam Chair, that's all the all-party committee will do.

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

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

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

They want people to be able to look at this and say it's non-political. There's no way it's non-political if Cabinet says, okay, we've selected five people – how is that taking politics out, I don't know – and we're going to put the five people here. We know how government works; everybody knows how government works. At the end of the day, every Member over there will stand in their place and support their government.

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

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

That's all I have to say.

Thank you very much, Madam Chair.

CHAIR: The hon. the Minister of Municipal Affairs.

MR. JOYCE: Thank you.

Madam Chair, I'm just going to stand for one second. I understand what the Member is saying. This is a valid point. It's a great discussion. Some of the things you brought forward are any position, once those five people are

appointed – I just want to make this clear – we should at least look and see who these five people are. Once we find out who these five people are then if we disagree, then we can speak in the House of Assembly.

The second part of it that was brought up very briefly is that once an appointment needs to be made, it's going to be advertised. The appointment for any position that's under this tier one will be advertised, so it's not that I, as a Member of the Legislature, not that anybody in this House got to go out and say let's go find people. It will be advertised.

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

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

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

I have no problem with having an open debate. I have no problem having the discussion about this because it is a serious issue and we are trying to make it much better. This will be much, much, much better than it ever was before, Madam Chair. There may be times – it's like any bill we bring in this Legislature, every day that we're in this Legislature, every minister in this House, and the former government also, we have to go and check our legislation to come in and bring legislation forth because things get outdated. That's part of it. Things may change. They may find a better way. That's part of the process of this government. This may happen with this bill, but this is where we're starting from.

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

I have to ensure that it's properly put forth that because it's an all-party committee that we can bring names forth – it makes no difference, Madam Chair, who's on that committee. The committee is there to select the best candidate. The

committee's job is not to go out and find people and people they may know; the committee is to say, here are the people that are coming forth with us. There is a screening process in place to ensure that we have a certain number of candidates. Once we have a certain number of candidates who are qualified, then the process for that committee is to find the best candidate in that group. That is the process.

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

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

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

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

Madam Chair, I think that's what democracy is all about. Once that independent committee is done, everybody in the Province of Newfoundland and Labrador can start saying what positions are open to make this province a better place. I am sure that every Member in this Legislature, and I'm sure every person in government – well, I shouldn't say that. Every person on this side, for sure, wants to ensure we get the best possible person in the position. That's why it's going to be open. That's why everybody in the province is going to know how to apply. Every person in this province who feels they're qualified for a position will have the opportunity to apply. That is why we'll be asking the best talent in Newfoundland and Labrador to come forward to help us.

Madam Chair, I'm proud to stand with this government, and I'm sure all Members in this House – I know we all stood on

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

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

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

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

I can guarantee you one thing, I'm willing to stand for anybody who comes in this Legislature that we're going to put forth and say why I want that person, why that person should be there, show the reasons why. I'm pretty confident, when you look people in the eyeball, face to face and try to say that person is not qualified, without even knowing the people who are going to be appointed, politics has already stepped into it.

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

SOME HON. MEMBERS: Hear, hear!

CHAIR: Order, please!

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

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

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

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

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

The amendment we are looking at is in section 6(3). It says, "The commission shall consist of 5 members" And the

amendment is: selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly.

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

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

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

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

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

The Electoral Boundaries Review Committee was a really important committee. It was about redrawing the boundaries for our electoral process. That's really important. Again, that's the foundational piece of our democracy, making sure we have electoral districts that reflect the needs of the province, making sure they are drawn properly, that they are divided, because it was a big job they had to do. Those people were appointed with very clear input from all three parties here in this House.

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

When you look at the Office of the Child and Youth Advocate it's so crucial, and she does at times have to come out and criticize what government does. It's so imperative, not only for those of us in the House to see it as non-partisan, but it's also imperative that those who are appointed by this

commission in our agencies, in our boards, in our commissions, they also need this safeguard. Because when they make difficult decisions, whether it to be fully agreeing with government, they need to know the public has confidence in the fact they were appointed, not on a partisanship basis, but they were appointed because of their merits, because of their expertise, because of their experience.

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

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

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

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

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

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

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

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

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

CHAIR: Order, please!

I remind the hon. Member her time has expired.

MS. ROGERS: Thank you very much.

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

MR. KENT: Thank you, Madam Chair.

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

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

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

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

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

Thank you.

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

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

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

SOME HON. MEMBERS: Nay.

CHAIR: The amendment has failed.

On motion, amendment defeated.

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

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

Thank you.

MR. KENT: Thank you, Madam Chair.

It is difficult to hear.

We believe that in addition to them being chosen by a committee of the House, it should be done using a merit-based process. So I'm going to propose an amendment to add the following words after the word "Assembly". I will read the formal amendment, but just to give you an idea of what we're trying to do here, after the word "Assembly" we'd like to add "and the names on that resolution shall be provided by an all-party select committee of the House of Assembly which shall receive recommendations from the Public Service Commission that are determined on a merit-based process."

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

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

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

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

Recess

CHAIR: Order, please!

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

The hon. the Member for Mount Pearl North.

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

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

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

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

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

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

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

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

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

Recess

CHAIR: Order, please!

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

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

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

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

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

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

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

So, Madam Chair, hopefully I'll have an opportunity to speak to that further, but I'd now like to move the following amendment to subclause 6(7). Subclause 6(7) of the bill is deleted and the following is substituted: "(7) The commission shall keep records of its proceedings and shall propose rules of procedure to the Select Committee which may amend the proposed rules and shall direct the commission as to the rules of procedure which will apply to the commission."

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

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

Recess

CHAIR: Order, please!

The Member for Mount Pearl North put forth a motion to amend subclause 6(7). The Chair has ruled the amendment **out of order** based on O'Brien and Bosc, page 763, "The

committee's decisions concerning a bill must be consistent with earlier decisions made by the committee."

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

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

I still want to speak to –

CHAIR: Order, please!

I remind the Member his time for speaking has expired.

The hon. the Member for Conception Bay South.

MR. PETTEN: Thank you, Madam Chair.

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

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

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

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

Thank you very much.

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

MR. KENT: Thank you, Madam Chair.

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

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

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

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

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

The challenge is that those appointees will be appointees of Cabinet. That will get rubber-stamped in this House, but there will be no opportunity for input from anybody else. I think that's a miss. I believe government wants to do the right thing here. I don't think it would have been a significant part of the party's platform in November if they weren't serious about it. I just feel there are some major, major flaws with this bill that probably will – unless we can get some of these amendments through, it will probably put us in a position where we have to stand against – some of us, anyway, will have to stand against this bill. Nobody is standing to say we oppose the concept of an Independent Appointments Commission. I haven't heard anybody say yet that they oppose that concept. But what we're talking about here in clause 6 is how these people are going to be appointed. They are being appointed by Cabinet and we don't believe Cabinet should select the names that will go into the resolution that will come before this House.

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

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

I think a select committee would be more independent and more transparent. Having a committee to make those appointments makes good sense. The chair of this committee is going to have some significant power and, for that reason,

we think it should be a more objective, impartial, transparent process that is not political. So that's why we're raising concerns with clause 6.

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

Those are the points we wanted to make around clause 6. I think there is an opportunity, by making changes to this section of the bill, to actually achieve a little bit of independence. It won't solve all of the issues with the bill, but how the committee is actually chosen, how the chair is chosen, how the rules of procedure are established, that's big stuff. In terms of the overall functioning of this Independent Appointments Commission those are major considerations, which is why we've taken some time this evening to raise concerns about that.

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

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

Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

It means working together, actually. That's what it means, but this government just seems intent on holding onto the reins on this one. I don't understand it, because you do have

the ultimate power to make the final decision but show the openness right from the beginning.

It really doesn't make sense to me. It doesn't make sense to me that you don't see what you're doing here. Maybe you do and you think it doesn't matter, but if you think that people will see the appointment by Cabinet of the commission as being open, transparent and non-partisan, I got news for you. People are not going to see it that way. This is a wonderful opportunity to once again test in this House of Assembly how all-party committees work. We're learning our way with that and this is another opportunity.

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

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

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

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

I don't even agree with the name of the act, because the name of the act is not correct. It's not what it is. It's not what the commission is and it's not what the process is.

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

Thank you very much, Madam Chair.

SOME HON. MEMBERS: Hear, hear!

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

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

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

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

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

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

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

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

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

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

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

Now, I'll stand by my belief, Madam Chair, that it would be better to start again. Because as people are seeing from the process so far, there are significant amendments required to try and make this workable and address some of the concerns that have been brought to us and that we've observed ourselves as we've gone through the legislation.

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

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

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

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

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

Thank you.

CHAIR: The hon. the Minister of Municipal Affairs.

MR. JOYCE: Thank you, Madam Chair.

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

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

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

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

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

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

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

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

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

Thank you, Madam Chair.

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

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

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

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

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

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

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

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

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

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

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

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

Ultimately though, government makes that decision, so there's nothing that government needs to fear. But I can't imagine what the reason would be not to do it. I simply cannot imagine. I mean I can guess, but I would hope that there would be an openness to modernize the way we do things. That has been stated by this government again and again, but we're not seeing the follow-through. This would be

a follow-through on that. This would be concretely proving but also following through on their own stated way of doing things.

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

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

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

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

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

I do not agree with the Member for Humber – Bay of Islands. We can't be debating in this House about the pros and cons of individual private citizens, about whether or not they are appropriate for certain appointments. We can't do that.

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

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

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

CHAIR: Order, please!

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

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

MS. ROGERS: Thank you.

SOME HON. MEMBERS: Hear, hear!

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 6 carried.

CLERK: Clause 7.

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

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

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

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

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

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

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

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

Cabinet appoint commissioners or, in this instance, appoint the replacement for the commissioners.

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

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

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

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

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

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

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

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

and (c) the Lieutenant-Governor in Council shall appoint that person to act in place of that commissioner."

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

The Committee is now in recess.

Recess

CHAIR: Order, please!

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

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

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

MR. KENT: Thank you, Mr. Chair.

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

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

I'm definitely disappointed, but nonetheless there are some other changes that we'd like to propose making. I don't think they're as significant in some cases, to be honest, which may mean – assuming they're in order – there may be an opportunity here for government to acknowledge that some of the suggestions will make the bill better. Having said that, I would urge government to consider how that commission is appointed to begin with, how the chair is selected to begin with, because there is still an opportunity, before this bill passes the House, to make it right.

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

I don't think it's controversial. I think it's a really small change that is perhaps more symbolic than anything else. So this may be an opportunity for us to – assuming the amendment is in order, Mr. Chair, it may be an opportunity for us to make a small change. Not as substantial, not as

important as some of the other changes we've been discussing this evening, but still it's a change that would make a slight improvement to the legislation that's proposed. The bill as it stands doesn't require commissioners to take an oath of impartiality and we believe it should. So our amendment is really simple, it's about adding a new subclause.

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

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

There is precedence for this, Mr. Chair. There are other government bodies where appointees must swear an oath or make that kind of affirmation to say in this instance that they would be impartial. I think it's a relatively simple, straightforward amendment that is consistent with other bodies. I don't see a lot of controversy attached to this one. I don't think it really changes the substance of the bill. It definitely doesn't change the spirit and intent; it's just a slight improvement. It doesn't fix the bill from our perspective, but it's an improvement that I just think makes good sense. I hope that other Members of the House will agree.

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

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

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

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

The Chair recognizes the hon. the Government House Leader.

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

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

CHAIR: To the amendment.

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

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

That being said, we're certainly happy to agree to it. If it makes the Opposition feel this will be a better piece of legislation, then I don't think it's harmful, per se. I think

these individuals, whoever is placed in this position, will have no issue. The same as all Members in this House sign an oath then I think these individuals will also have no issue signing an oath to carry out their duties in an impartial manner.

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

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

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

Thank you, Mr. Chair.

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

The amendment is carried.

On motion, amendment carried.

CHAIR: Shall clause 7 carry, as amended?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

On motion, clause 7, as amended, carried.

CLERK: Clause 8.

CHAIR: Shall clause 8 carry?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

Carried.

On motion, clause 8 carried.

CLERK: Clause 9.

CHAIR: Shall clause 9 carry?

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

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

I'm very happy to stand again to speak to Bill 1. As we know, when we look at the history of gender equality, whether it be in the political arena or whether it be in business, that things

are moving very, very, very slowly. As a matter of fact, sometimes we even see steps backwards.

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

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

If we look at the political landscape as well, all we have to do is look here in our House and of the 40 Members, only nine are women. That's less than 25 per cent of the MHAs here in the House are women. But, we do know, when we look at the federal election that we just had in 2015, women made up 533 of the 1,732 nominated candidates – so they made up 29.7 per cent – and women went on to win 88 of the 338 available seats. That's 26 per cent.

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

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

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

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

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MS. ROGERS: Thank you, Mr. Chair.

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

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

So, Mr. Chair, I have copies of the amendment here. I'll read it one more time without embellishment and editorializing.

This is an amendment in the Committee of the Whole of the House for Bill 1, An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments. Subclause 9(1) of the bill is amended by adding immediately after the word "process" the words "and those recommendations shall accurately reflect the province's society as a whole in terms of gender balance, diversity and regional representation."

I move this –

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

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

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

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

The Committee is now recessed.

Recess

CHAIR: Order, please!

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

The Chair recognizes the hon. the Government House Leader.

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

I just want to take a moment to speak to the proposed amendment. I am just speaking to the general content that was put forward. I don't know if that's acceptable. I'm obviously not questioning this at all, but I just wanted to

have a discussion of some of the comments that were made by the Member opposite.

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

Again, I see the Member – I didn't turn down the amendment, I say to the Member opposite. What I'm saying is that the Public Service Commission does collect this info, does tabulate this and is going to ensure that these things are considered. It's not just going to be a gender lens. It's going to have to be a youth lens and it has to be a regional lens, all this information.

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MS. ROGERS: – that in fact that the –

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

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

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

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

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

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

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

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

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

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

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

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

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

My concern is that the *Human Rights Act* would be in reaction to any kind of complaint. I know that not appointing women or not appointing youth or not appointing diversity would not be in violation of the *Human Rights Act* in and of itself. It's only if a complaint were brought through that someone wasn't appointed because they were a woman or somebody wasn't appointed because of their ethnic origin or whatever.

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

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

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

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

I appeal to the Minister of Justice, I appeal to the government to do the right thing. It's not just about representation of gender, it's about – the appointments have to reflect our province. If they don't reflect our province, we

keep committing the same problem again and again and again. We have to get out of that loop, because that's what it is, Mr. Chair. It's a vicious loop that keeps repeating itself.

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

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

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

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

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

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

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

If we do not do this, Mr. Chair, we will not see a difference. History has proven that. The evidence is before us here tonight. All we have to do is look at our boards, our commissions and our agencies, and it's evident. We also have to have regional representation. We have to have representation. We need to see seniors being able to be in positions to be able to make decisions. It's even more crucial in some boards, agencies and commissions than perhaps others.

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

CHAIR: Order, please!

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

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

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

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

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

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

Certainly, one of the most important things for us to do, in my responsibility on the Public Service Commission, is to make sure we are actively recruiting and encouraging all individuals, including, as the Member opposite has suggested, women are participating at a higher level than they have been.

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

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

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

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

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

Thank you.

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

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

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

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

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

MS. ROGERS: Shocked.

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

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

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

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

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

government to meet those needs. You have to make sure that it's in there or it's not going to happen. It's not happening now, so it's not going to happen.

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

AN HON. MEMBER: (Inaudible.)

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

CHAIR: Order, please!

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

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

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

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

The guidelines also note the fluidity of the challenges faced by recruitment. Challenges change over time, but they have to be met, and the composition of members and the expertise which may assist an organization should also evolve over time. Surely to goodness we've evolved in this province into understanding how to make a piece of legislation recognize diversity. Just hiding behind the merit based – I mean, the ruling that the Chair had to make, I fully understand because it's filled with this merit based, without any other layer.

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

This is the time to try to make a change. This is the time. We have a piece of legislation here that is flawed in a couple of

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

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

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

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

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

MR. KENT: Thank you, Mr. Chair.

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

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

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

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

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

place. It feels to me like it is. Somewhere here in clause 9 that we're debating this evening, but if not here then somewhere else in the legislation.

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

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

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

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

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

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

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

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

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

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

This does not diminish, in any way whatsoever, the merit-based overriding principle. It does not. This is the kind of legislation that human rights activists, women, people from

the disability community, that First Nations people have been pushing for and fighting for, for decades. We thought we had solved this issue, and here we are in our House of Assembly as if none of that has happened. I feel like I'm Alice in Wonderland at the Mad Hatter's tea party. I cannot believe it.

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

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

CHAIR: Order, please!

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

MS. ROGERS: Yes.

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

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

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

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

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

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

I am not sure what will stop it now. I am pleading to government to do the right thing. I am pleading to the Minister Responsible for the Status of Women to do something that would make it binding for the Independent Appointments Commission to make recommendations, keeping in the mind the diversity of the province. We know, history has shown us, all the recent research has shown us, the very faces that sit in these chairs in this House of

Assembly have shown us, the heads of our agencies, boards and commissions in the province shows us it doesn't work unless it is legislated.

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

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

Thank you very much, Mr. Chair.

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

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

I just want to make a couple more points with regard to the whole issue of the appointments happening based on merit. Nobody has any problem with that. We obviously want appointments to be based on merit, but history has shown us – and there is all kinds of research to show us – that because we are still in a society that is patriarchal actually, we're still in that society that when people, when organizations, when governments, when businesses, when boards themselves look at new members to go on their boards or people to be in certain positions, because of the male dominance there is this thing where they're only looking at males when it comes to merit. It's a fact. It's a scientific fact. It's been researched.

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

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

So the point I'm making is that it's not merit based or diversity – we want merit based – but it's the recognition that because of how we have developed in a patriarchal society

that unless we look for merit in other places besides in male domain, we continue to have male dominated. And, in our society, it's not cliché, it's just a reality: white male dominance. That's the reality.

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

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

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

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

Once again, it's 2016, please stop it. Please make the changes to this legislation. We're not going to make any more amendments. It's in your hands. Make the changes. Minister, you can stop this and say we'll put this on hold and make changes.

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

Thank you very much, Mr. Chair.

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

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

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

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

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

MR. KENT: Thank you, Mr. Chair.

I'm just rising briefly once again to speak to clause 9. I think the questions that are being posed by the Member for St. John's Centre are legitimate questions. I hope that while we're working through this bill together at Committee stage that we will get some answers to those questions around what thought and what research has gone into getting us to where we are.

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

CHAIR: Order, please!

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

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

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

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

Thank you.

CHAIR: Shall clause 9 carry?

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

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

SOME HON. MEMBERS: Nay.

CHAIR: The vote has been taken.

AN HON. MEMBER: (Inaudible.)

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

Clause 9 is carried.

On motion, clause 9 carried.

CLERK: Clause 10.

CHAIR: Shall clause 10 carry?

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

MR. KENT: Thank you, Mr. Chair.

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

CHAIR: Order, please!

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

MR. KENT: We are.

CHAIR: The hon. Member for Mount Pearl North.

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

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

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

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

I'm going to propose another amendment, Mr. Chair, that would delete "Lieutenant-Governor in Council or minister, as appropriate," and substitute "Speaker of the House of Assembly." Because if you want to take politics out of this,

then the decisions can't continue to be made in secrecy behind closed doors in minister's offices or at the Cabinet table. That is the fundamental problem with this legislation. In various sections of the bill we've pointed it out. We're pointing it out again here in clause 10.

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

The amended subclause would read: Notwithstanding paragraph (1)(b), where, in the opinion of the commission, it is not possible to recommend three persons for an appointment, the commission may recommend fewer than three persons; but, in that case, it shall report to the Speaker of the House of Assembly, outlining its efforts to comply with paragraph (1)(b) and the Speaker shall table a copy of it in the House of Assembly immediately after receiving it if the Assembly is sitting or, if it is not, the Speaker shall give a copy of the report to the Clerk of the House of Assembly and immediately after receipt of that report by the Clerk it shall be considered to have been tabled in the House.

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

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

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

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

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

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

the amendment into the record and move the following amendment:

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

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

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

MR. KENT: Thank you, Mr. Chair.

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

So I think establishing this role for the Speaker and making sure that the reports are issued and provided in a timely fashion makes good sense. I won't prolong the matter. I think this is a sensible and reasonable amendment, and I ask for government's consideration.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

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

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

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

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

Thank you.

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

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

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

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

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

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

CHAIR: Order, please!

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

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

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

CHAIR: Order, please!

MS. COADY: I'll continue to listen to the debate, continue to listen to what they have to say on this very issue and perhaps they can change my mind, Mr. Chair. But my concern here is that we're layering on more provisions rather

than trying to get to the heart of the matter, which is ensuring that we have the right process for agencies, boards and commissions.

Thank you, Mr. Chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All those in favour of the amendment as proposed?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

SOME HON. MEMBERS: Nay.

CHAIR: The amendment is defeated.

On motion, amendment defeated.

CHAIR: Shall clause 10 carry?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: Clause 10 is carried.

On motion, clause 10 carried.

CLERK: Clause 11.

CHAIR: Shall clause 11 carry?

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

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

Clause 11 is about directing the Public Service Commission to support the commission in its work to find suitable candidates for positions. We believe there should be an explicit statement that the commission can rely on the Public Service Commission to use persons with expertise in finding suitable candidates for positions in particular fields of employment. This statement reflects our belief that the process should look for the very best candidates to serve the people in the province.

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

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

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

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

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

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

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

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

The Chair recognizes the hon. the Government House Leader.

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

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

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

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

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

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

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

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

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Shall clause 11 pass?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: It's passed.

On motion, amendment carried.

CHAIR: Shall clause 11, as amended, carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

Clause 11, as amended, has now been carried.

On motion, clause 11, as amended, carried.

CLERK: Clause 12.

CHAIR: Shall clause 12 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

Carried.

On motion, clause 12 carried.

CLERK: Clause 13.

CHAIR: Shall clause 13 carry?

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

MR. KENT: Thank you, Mr. Chair.

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

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

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

That paragraph gives Cabinet the power to bypass the commission whenever the Cabinet determines that there are urgent or extenuating circumstances. Had we had an opportunity, we would have talked about 9(2)(b) further because there should be a public announcement before such an appointment is made, and the appointment should last for a maximum of six months.

CHAIR: Order, please!

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

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

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

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

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

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

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

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

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

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

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

Mr. Chair, the only thing I can say is in looking at appointments that are made – most often in this environment in which we operate today with modern communications and the way people understand and know things, if an appointment is made, certainly something that is made

urgently and with extenuating circumstances, it would normally be in the court of public opinion very quickly. I'm sure my hon. colleagues would hold this government to account very quickly. I'm sure that an order-in-council would be made and therefore would be made public. Is that -?

AN HON. MEMBER: Yes.

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

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

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

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

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

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

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

I'm disappointed that the minister would take such a dismissive approach. We think this would strengthen the legislation. Frankly, I don't think it's a big deal. This feels like it should be an easy one to address and fix. Let's give public notice of those appointments immediately after they have been made; immediately within reason, obviously.

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

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

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

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

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

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

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

Thank you.

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

MR. KENT: Thank you, Mr. Chair.

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

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

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

orders-in-council when they get posted online doesn't really address this concern.

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

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

Thank you.

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: The amendment has been defeated.

On motion, amendment defeated.

CHAIR: Shall clause 13 carry?

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

MR. KENT: Thank you, Mr. Chair.

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

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

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

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

CHAIR: Order, please!

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

MR. KENT: Absolutely, yes.

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

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

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

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

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

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

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

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

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

CHAIR: Correct.

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

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

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

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

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

The Committee is now in recess.

<p style="text-align: center;"><u>Recess</u></p> <p>CHAIR: Order, please!</p> <p>The Chair has considered the amendment as proposed by the hon. the Member for the District of Mount Pearl North and finds the amendment to be in order.</p> <p>The Chair recognizes the hon. the Member for the District of Mount Pearl North.</p> <p>MR. KENT: Thank you, Mr. Chair.</p> <p>I appreciate your consideration. Just because I suspect we'll shortly vote on this, I want to remind hon. Members of what we're proposing here.</p> <p>It's about reporting. By adding subclause 13(3), we're talking about recommendations that are coming from the Appointments Commission. These reports are about circumstances in which someone was appointed who was not recommended by the commission. We believe that should be disclosed immediately and should also be accounted for in the annual reports.</p> <p>We're simply adding a subclause that says: "The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments to entities listed in the Schedule that were not an appointment recommended by the commission."</p> <p>It's fairly straightforward. I won't prolong discussion, Mr. Chair. I've made my points and certainly ask for government's consideration of what I think is a reasonable amendment.</p> <p>CHAIR: Do we have any further speakers to the amendment?</p> <p>Seeing none, shall the amendment carry?</p> <p>All those in favour?</p> <p>SOME HON. MEMBERS: Aye.</p> <p>CHAIR: All those against?</p> <p>SOME HON. MEMBERS: Nay.</p> <p>CHAIR: The amendment has been defeated.</p> <p>On motion, amendment defeated.</p> <p>CHAIR: The hon. the Member for the District of Mount Pearl North.</p> <p>MR. KENT: Thank you, Mr. Chair.</p> <p>I'm disappointed that amendment was defeated. I'll propose an additional amendment. I had mentioned previously that we were going to propose subclause 13(3) and subclause 13(4). Well, subclause 13(3) just didn't get approved, so I'm going to propose a new 13(3) which was my 13(4). I think you're following me here.</p> <p>So the new subclause (3) I would like to propose relates to the recommendations from the Public Service Commission for the tier-two appointments, for those appointments that won't go through this Liberal Appointments Commission but go through a Public Service Commission process.</p>	<p>The language we're proposing now for subclause (3) is: "The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments included in Schedule C of the <i>Public Service Commission Act</i> that were not an appointment recommended by the Public Service Commission."</p> <p>This is about accountability and transparency. It's about immediately disclosing those instances where these processes aren't followed. This additional reporting is not a big burden. It doesn't really cost anything. It's just about making the whole process a little bit more legitimate, hopefully, and more transparent.</p> <p>Mr. Chair, I'm adjusting it based on the failure of the previous amendment.</p> <p>SOME HON. MEMBERS: Oh, oh!</p> <p>CHAIR: Order, please!</p> <p>MR. KENT: I'm moving the following amendment. Clause 13 of the bill is amended by adding immediately after subclause (2) the following: "(3) The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments included in Schedule C of the <i>Public Service Commission Act</i> that were not an appointment recommended by the Public Service Commission."</p> <p>Thank you.</p> <p>CHAIR: The Chair has previously reviewed the amendment and finds this amendment also to be in order.</p> <p>Do we have any speakers to the amendment?</p> <p>The hon. the Member for the District of Mount Pearl North.</p> <p>MR. KENT: Just quickly, Mr. Chair, I'm not interested in prolonging it unnecessarily. For the reasons I previously outlined, this is just about improving reporting.</p> <p>These reports we're asking for address a circumstance where somebody is appointed who wasn't recommended. Having that disclosed in a timely fashion, if we're actually committed to having a process with accountability and transparency, then it just makes good sense.</p> <p>I've made my arguments; I won't prolong them. Unfortunately, the previous amendment was voted down. I fear this one will be as well. But I believe it's the right thing to do and I think it improves upon this flawed legislation. I hope government will reconsider, Mr. Chair.</p> <p>CHAIR: Seeing no further speakers to the amendment, shall the amendment carry?</p> <p>All those in favour?</p> <p>SOME HON. MEMBERS: Aye.</p> <p>CHAIR: Those against?</p> <p>SOME HON. MEMBERS: Nay.</p> <p>CHAIR: The amendment has been defeated.</p> <p>On motion, amendment defeated.</p> <p>CHAIR: Do we have any further speakers?</p>
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The hon. the Member for the District of Mount Pearl North.

MR. KENT: Thank you, Mr. Chair.

Originally we were going to add a subclause 13(5). So now we're going to propose subclause 13(3) once again, as our proposed subclauses 13(3) and 13(4) didn't pass. This is about the merit principle.

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

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

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KENT: Thank you, Mr. Chair.

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

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

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

This relates to some legislation that exists in other provinces that I feel is relevant at this point in time to draw your attention to and draw Members' attention to, Mr. Chair. Government has repeatedly suggested that this is the first example of an independent, merit-based appointments process in Canada. I don't believe that notion is accurate. In fact, Ontario has had an independent appointments commission for decades. The merit principle does actually factor in here.

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

The mandate of that committee in Ontario reflected the recommendations of an all-party committee report in 1986. The reason I'm raising that, Mr. Chair, is that the committee now reviews intended appointees to agencies, boards and

commissions and of directors to the corporations in which the Crown in right of Ontario is majority shareholder. Intended appointees may be requested to appear before the committee to discuss their qualifications. The committee reports back to the legislature on whether or not it concurs with the intended appointments.

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

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

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

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

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

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

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

MR. KIRBY: Talk about Alberta.

MR. KENT: Talk about Alberta – the Minister of Education would like me to talk about Alberta. I will stand after proposing my amendment and I'm happy to speak about Alberta as well. That's not a problem.

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

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

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

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

MR. KENT: Thank you, Mr. Chair.

CHAIR: On the amendment.

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

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

What that means is for that merit commissioner to be put in place in British Columbia, all parties in that legislature have to work together and support the appointment of that person. The changes we're trying to make to uphold that merit principle are very much in line with what's happening in a couple of other jurisdictions in this country.

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

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KENT: Thank you, Mr. Chair

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

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

strengthening the merit principle and ensuring accountability around the merit principle. So we should learn from what has happened in other jurisdictions.

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

In September 2014, the previous premier of Alberta also committed to merit-based appointments. So they haven't progressed as far as British Columbia or Ontario. Clearly, they don't have the same kind of history and experience with this, but other jurisdictions in Canada are attempting to explore what we're talking about here this evening.

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

Thank you, Mr. Chair.

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

All those in favour of the amendment?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: The amendment has been defeated.

On motion, amendment defeated.

CHAIR: Shall clause 13 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 13 carried.

CLERK: Clause 14.

CHAIR: Shall clause 14 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 14 carried.

CLERK: Clause 15.

CHAIR: Shall clause 15 carry?

The hon. the Government House Leader.

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

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

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

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

Recess

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

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I want to speak in support of the amendment that's been proposed by the Government House Leader. In fact, one of the amendments that we mentioned earlier today and circulated copies of is basically the same amendment. This one is worded a little differently, perhaps better. I don't know. But the intent is exactly the same as the amendment that we were going to bring forward to subclause 15(1).

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

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

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

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

Carried.

On motion, amendment carried.

CHAIR: Shall clause 15, as amended, carry?

All those in favour?

SOME HON. MEMBERS: Aye

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 15, as amended, carried.

CLERK: Clause 16.

CHAIR: Shall clause 16 carry?

The hon. the Government House Leader.

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

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

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

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

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

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

moment to review the amendment proposed by the Government House Leader.

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

CHAIR: I'm about to make a ruling.

AN HON. MEMBER: (Inaudible.)

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

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

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I'm just making sure my light is on.

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

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

This amendment to clause 16 requires the report of the review of the act to be tabled within three days of its submission. In our amendment we had approached it slightly differently, but I think the intent is much the same. We basically wanted to ensure the five-year review went to the House of Assembly for release as quickly as possible.

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

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

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

Carried with amendment.

On motion, amendment carried.

CHAIR: Shall clause 16, as amended, carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

Carried.

On motion, clause 16, as amended, carried.

CLERK: Clause 17.

CHAIR: Shall clause 17 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 17 carried.

CLERK: Clause 18.

CHAIR: Shall clause 18 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

Carried.

On motion, clause 18 carried.

CLERK: Clause 19.

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

MR. KENT: Thank you, Madam Chair.

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

Getting right down to business again, we're going to be proposing an amendment to subclause 19(4). I want to highlight for the House that it relates to the *Public Service Commission Act* subsection 21(3). It's about bypassing the commission in urgent circumstances, which is an issue that has come up several times during this debate.

The amendment that we're going to propose here is parallel to an amendment we wish to propose to subclause 9(2)(b).

It's about what happens when Cabinet declares the circumstances to be urgent or extenuating in order to bypass the merit-based process.

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

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

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

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

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

We proposed a related amendment to subclause 13(1) that wasn't successful to require reports on these exceptions immediately after they're made and annually. That's what we're trying to – we're trying to put some more rigor around those instances where the commission is bypassed in urgent circumstances, and ensure more transparency and accountability around that.

I hope that's clear. It's one of the wordier amendments, I guess, that we'll be presenting. If Cabinet plans to make appointments that bypass the commission in those urgent and extenuating circumstances that has to be revealed publicly. The appointments should only be for a specific period of time if there hasn't been some kind of merit-based process.

I'll move the following amendment, Madam Chair: Subclause 19(4) of the bill is amended at the proposed paragraph 21(3) to the *Public Service Commission Act* by adding immediately after the words "in paragraph (2)(b)" the following words "and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more than 6 months unless the

appointment has been confirmed through a merit-based process."

CHAIR: The hon. Member for Mount Pearl North has made a motion to propose an amendment to subclause 19(4). The House will now recess briefly to consider the amendment.

Recess

CHAIR: Order, please!

The Member for Mount Pearl North proposed an amendment to subclause 19(4). The Chair has ruled the amendment **in order**.

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I'm glad the amendment is in order. I won't speak further to it. I've made the arguments as to why I think this is a sensible amendment and I'm hoping government will see fit to support this amendment.

Thank you.

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

On motion, amendment defeated.

CHAIR: Shall clause 19 carry?

The hon. the Member for Conception Bay South.

MR. PETTEN: Thank you, Madam Chair.

It's good to get up and speak on this section 19. My colleague for Mount Pearl North has been carrying today on this, and doing a great job I might add.

As we've just seen, this amendment is in order. The bill is amended at the proposed – to the *Public Service Commission Act* by adding immediately after the words: "and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more than 6 months unless the appointment has been confirmed through a merit-based process."

We're glad to see that amendment has been found to be in order. I pass it back over to my colleague to carry on with his next amendment.

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

MR. KENT: Madam Chair, the amendment that was found in order was defeated. So we're now back to debating clause 19, is that correct?

CHAIR: Yes, correct.

MR. KENT: Okay, thank you.

Just to make sure we're in the same place. Thank you.

On that note, I'd now like to propose an additional amendment to clause 19. It's to add subsection 21(4) to the *Public Service Commission Act*. But I now believe that would be 21(3) because if the previous amendment failed, then this one would actually be 21(3).

Does that make sense, Madam Chair? I'm pausing just to make sure we're in the same place here.

CHAIR: No, I think we have a discrepancy here, I say to the hon. Member.

We'll just have a look at the amendment you have there.

MR. KENT: Okay.

CHAIR: Just pause for a moment.

The hon. Member for Mount Pearl North.

MR. KENT: Madam Chair, I think now we're on the same page. We just want to make sure we get it right. It's a little more complicated in this instance because we're proposing a series of amendments to clause 19. Because government just voted down our first proposed amendment, we now need to make some adjustments to the next amendment.

That's where we are right now. I think we've got that sorted out. We're going to propose a new subsection 21(3) to the *Public Service Commission Act*. We're proposing an amendment to subclause 19(4) of Bill 1.

This amendment is parallel to an earlier amendment we proposed this evening. It's about the annual review of the merit principle. Its purpose is to require an annual review to ensure the merit principle was respected in tier-two appointments that should go through the Public Service Commission's merit-based appointments process.

It's about what happens when Cabinet declares the circumstances to be urgent or extenuating in order to bypass the merit-based process. So very similar to some other amendments that we've proposed.

What we want to do now, in light of the previous amendment failing, is amend subclause 19(4) to add subsection 21(3) to the *Public Service Commission Act*. Here's how the new subsection 21(3) would read –

AN HON. MEMBER: Subsection 21(4).

MR. KENT: It is subsection 21(4). Okay, I apologize. We're just having a little bit of confusion with the numbering here, Madam Chair, just because of the multiple amendments to the same section.

I'm sorry; it's subsection 21(4) that we're proposing to add. Subsection 21(4) would read as follows: "(4) The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form a part of the report made under section 17."

So let me just tell you what section 17 in the *Public Service Commission Act* says: "The chairperson shall, following the end of each financial year of the government, make a report to the minister of the transactions and affairs of the commission during the immediately preceding financial year, and the minister shall lay the report before the Legislature within 15 days after it is submitted to him or her if the

Legislature is then sitting, and, if it is not sitting then within 15 days after the beginning of the next session."

If we are aligned here, the original amendment that I was going to propose, the numbering will still work as it was originally proposed. I'm going to move the following amendment, Madam Chair. Subclause 19(4) of the bill is amended at the proposed section 21 to the *Public Service Commission Act* by adding after subsection (3) the following: "(4) The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form a part of the report made under section 17."

CHAIR: The Chair has had a chance to review the amendment and has ruled it in order.

The hon. the Government House Leader.

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

I'm hoping that I have this right. There was a little bit of confusion here with this one. I think the amendment as entered by the Deputy Opposition House Leader was to change clause 19(4) and the amendment would now say: "The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form part of the report made under section 17."

Looking at this piece of legislation, in case people were wondering, the Schedule C that is referred to is towards the back; Schedule C lists a number of entities which we would refer to as tier-two entities. There is tier one and there's tier two. Again just so people understand how tier two works, tier two will still go through the Public Service Commission. People will have the opportunity to apply, to put their name forward and it is screened. The Public Service Commission puts forward names to – in this case, though, it doesn't go to the Independent Appointments Commission; it goes to the minister that would make the decision.

Currently, as it stands, under the process that's currently in place, there's nothing whatsoever. A minister can appoint who they want regardless. There's nothing in place. In many cases, there's often no notice given; it's just you fill the position based on what's available. I can say that a number of them are available.

I guess the issue I have here is that basically the Public Service Commission is being asked to do an annual audit on themselves. They're saying they must conduct an annual review of all appointments. In this case, any appointments made to this have to come through the Public Service Commission.

So the Public Service Commission is the one that's putting them forward. It's up to a minister to take these names and apply. It's not about going outside of this. If there is an exception made to this, it goes back to the other sections here where there's notice having to be provided and tabled in the House.

I certainly don't think the PSC needs oversight of themselves. I don't think that this subsection is necessary. I understand where the Member was trying to get with it, but don't think it's necessary.

Thank you.

CHAIR: The hon. Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I appreciate the Government House Leader's comments. This is another one where we'll probably have to agree to disagree. Even if the Public Service Commission is reviewing appointments that it's been involved in, an annual review to confirm that the merit principle has been upheld, even if it's an internal review, we still think has value.

Making sure that the merit-based appointments process is maintained makes a lot of sense. What we're talking about here, particularly times when Cabinet declares the circumstances to be urgent or extenuating in order to bypass that merit-based process.

I respectfully disagree with the Government House Leader's view on this one. We do feel this additional step to ensure the merit principle is upheld has merit. I won't prolong it. I've made my arguments. We think this is a good amendment.

Unfortunately, we see this differently. But an internal review by the Public Service Commission to ensure that the merit principle is being upheld is something that we feel is valuable and would improve this legislation.

Thank you.

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: The amendment is defeated.

On motion, amendment defeated.

CHAIR: Shall clause 19 carry?

The hon. Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I thank the Minister of Business, Tourism, Culture and Rural Development for his enthusiastic support one moment ago. He should note as well that I always get the name of his department right. I guess I should as his critic, but it's a complicated department name that many mishandle but even at this hour we've got it right.

I do have one more amendment to propose to clause 19, which we're now debating. It's unfortunate that our previous two amendments have failed. So we'll move on to a different issue now. Previously, we were talking about urgent or extenuating circumstances and an annual review of the merit principle, but now we want to talk about expanding the commission's Schedule.

We were just talking about the Public Service Commission and its role in all of this. Our belief is that more public bodies should be subject to the new commission and the merit-based process. Even though a number of our significant concerns with the commission process haven't been addressed, if there's going to be a commission then we feel

more bodies should actually be subject to the commission and its process.

The Independent Appointments Commission tier-one bodies are listed in the Schedule at the end of this bill. They include a couple of entities and dozens of statutory appointments. The Public Service Commission tier-two bodies are listed in subclause 19(5) which proposes to add a Schedule C to the *Public Service Commission Act*. It includes 30 entities and dozens of statutory appointments.

What we're proposing here, Madam Chair, is quite simple. We want to take the entities from the Public Service Commission Schedule and add them to the Independent Appointments Commission Schedule, and in order to do that we need two amendments; one to remove them from one place and another to add them to another place.

This first amendment I'm introducing is removing entities from the *Public Service Commission Act*, Schedule C. The amendment will read: Subclause 19(5) of the bill is amended at the proposed Schedule C by deleting the heading "Entities" and the items under that heading.

This is one amendment, and I will be proposing a further amendment to the Schedule that will add those entities back in under the Schedule for the Appointments Commission. What we're doing here is simply taking out the list from under the Public Service Commission and putting it under the Independent Appointments Commission but that will require a second amendment that I can't do in the same amendment – just to be clear on what we're doing here.

There's a long list of those entities that we're talking about. I could read them all, Madam Chair, but in the interest of time –

SOME HON. MEMBERS: Oh, oh!

MR. KENT: I'm having a little trouble hearing myself, Madam Chair.

CHAIR: Order, please!

I ask members for their co-operation (inaudible).

Thank you.

MR. KENT: Thank you.

I won't read the full list but just give you a few examples of those entities we're talking about moving: Agreement on Internal Trade Dispute Screener; Agreement on Internal Trade Roster of Panellists; Atlantic Lotto Corporation with respect to provincial representatives; Dental Monitoring Committee; Municipal Assessment Agency with respect to taxpayer representatives; Premier's Youth Advisory Committee; Provincial Advisory Council on Aging and Seniors; Provincial Wellness Advisory Council. Just to give you a few examples.

It is a long list, and I can read it if the minister would like me to do so.

MR. A. PARSONS: (Inaudible.)

MR. KENT: Okay. I'm going to respect the opinion of the Government House Leader. He doesn't feel I need to read them all into the record, so I accept that. They're there in the bill clearly outlined.

We believe even for these bodies, which are categorized here as tier-two bodies, that the Independent Appointments Commission should be responsible for those appointments as well. If we're going to do this, let's do it. We still believe there are some major problems with the commission as its proposed making it very difficult for us to support this bill as it presently stands, but if it's going to proceed then we believe all of these entities should be subject to the commission and a merit-based process. That's what this amendment is about.

Madam Chair, on that basis I move the following amendment: Subclause 19(5) of the bill is amended at the proposed Schedule C by deleting the heading "Entities" and the items under that heading.

CHAIR: The Chair has had a chance to review the amendment and is ruling the amendment out of order because it is really beyond the scope and intent of this bill.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

Shall clause 19 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 19 carried.

CLERK: Clauses 20 through 24 inclusive.

CHAIR: Shall clauses 20 to 24 inclusive carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clauses 20 through 24 carried.

CLERK: The Schedule.

CHAIR: Shall the Schedule carry?

MR. KENT: I'm up, so I'll speak briefly and then give him the floor.

CHAIR: The hon. Member for Mount Pearl North.

MR. KENT: Madam Chair, we do have another amendment that relates to the amendment that was previously ruled out of order. I still think it's important to make the point of what we were trying to do. The amendment is to take entities from the *Public Service Commission Act*, Schedule C, and place them in the Independent Appointments Commission Schedule.

I am going to move the amendment. I'll respect whatever ruling you make. Perhaps government will have additional amendments to the Schedule. They would be welcome, Madam Chair, especially if our amendment is ruled out of order.

I'll only read the amendment once, given the length of it. I now will have to read that long list I was referring to moments ago.

I move the following amendment to the Schedule: The Schedule to the bill is amended by adding immediately under the heading "Entities" the following items: Agreement on Internal Trade Dispute Screener; Agreement on Internal Trade Roster of Panellists; Atlantic Lotto Corporation with respect to provincial representatives; C. A. Pippy Park Golf Course Limited with respect to ministerial appointments; Dental Monitoring Committee; Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees; Municipal Assessment Agency with respect to taxpayer representatives; Newfoundland and Labrador Film Development Corporation; Newfoundland and Labrador Historic Commemorations Board; Newfoundland and Labrador Sports Centre Incorporated with respect to six members and a chairperson appointed by Lieutenant Governor in Council; Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson; Premier's Youth Advisory Committee; Provincial Advisory Council on Aging and Seniors; Provincial Advisory Council on Mental Health and Addictions; Provincial Advisory Council on the Inclusion of Persons with Disabilities; Provincial Cancer Control Advisory Committee; Provincial Council of the Rural Secretariat; Provincial Wellness Advisory Council; Regional Regional Council of the Rural Secretariat, Avalon Peninsula; Regional Council of the Rural Secretariat, Burin Peninsula; Regional Council of the Rural Secretariat, Clarenville – Bonavista; Regional Council of the Rural Secretariat, Corner Brook – Rocky Harbour; Regional Council of the Rural Secretariat, Gander – New-Wes-Valley; Regional Council of the Rural Secretariat, Grand Falls-Windsor – Baie Verte – Harbour Breton; Regional Council of the Rural Secretariat, Labrador Region; Regional Council of the Rural Secretariat, St. Anthony – Port Au Choix Region; Regional Council of the Rural Secretariat, Stephenville – Port aux Basques Region; Torngat Joint Fisheries Board with respect to the members appointed by the provincial minister; Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister; and URock Volunteer Award Selection Board.

CHAIR: Thank you.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

The Chair has had a chance to review the amendment. Again, it is beyond the scope and intent of the bill and for that reason has been ruled out of order.

The hon. the Government House Leader.

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

Speaking to the Schedule, I do have an amendment that I would move. This one is number one: The Schedule to the bill is amended by deleting the reference "Access to Information and Protection of Privacy Act, 2015, section 85." There was a briefing today on a piece of legislation about statutory offices and this is something that, actually, I will discuss again after we move this, if it's accepted and approved.

CHAIR: The Chair has reviewed the amendment put forth by the Government House Leader and has ruled that the amendment is in order.

The hon. the Government House Leader.

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

I believe as we move forward here, we are coming towards the end. We're dealing with the Schedule of the bill. As the Member opposite referenced, there are a number of different entities here. Again, depending on whether they're tier one or tier two, in fact, the level of importance defers. I would suggest that tier one obviously carries a different level of importance as opposed to tier two.

As you're going through tier one in the Schedule there are a number of agencies and groups there. One of them actually is under the Statutory Appointments. It's the *Access to Information and Protection of Privacy Act, 2015*, section 85. And that's as it relates to the Information and Privacy Commissioner. All statutory offices normally, as they stand right now, would be a selection by Cabinet, a resolution put forward to the House and then voted on in this House of Assembly.

In our proposal that we're putting forward, this would still go through the PSC. It will go the IAC. Three names will be put forward to Cabinet, a selection made, the same thing, a resolution put forward. As we know, it was just last year that ATIPP was revised and we discussed, debated and voted on it here in this House. The procedure voted on and I think agreed unanimously by all Members in this House was to have a different procedure put in place to select that. I think it's actually a double-majority vote that's to be used.

The position that we're putting forward here now is that given we haven't had an opportunity to test this particular piece of legislation, and the fact that it also has to be reviewed down the order as a statutory review, we felt it best given that this was put forward in this House – actually, was brought forward by the previous government, was supported. We feel that it's best to continue on with that, to test it and allow that to continue as per normal.

So that's why the amendment as suggested is put forward. But I would look forward to any comments or questions the Members opposite would have.

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

MR. KENT: Thank you, Madam Chair.

I accept the rationale that's been put forward by the Government House Leader. It sounds like it's a logical amendment. I have nothing further to add and am prepared to support the amendment.

CHAIR: The hon. the Member for Conception Bay South.

MR. PETTEN: I do support the amendment with my colleague for Mount Pearl North. He'll finish it off here now.

SOME HON. MEMBERS: Hear, hear!

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

MR. KENT: Madam Chair, I appreciate how concise and to the point the Member for Conception Bay South is when he speaks in this House. I hope his constituents are watching tonight. Just so focused and to the point, I appreciate that.

The final point I wanted to make, Madam Chair –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KENT: – because I realize we'll vote on the amendment, but then we'll quickly vote on the Schedule as well. I just want to reiterate again that we believe all of these appointments should be subject to the Appointments Commission process. That's the spirit and intent of the amendments we were introducing last going off under clause 19, and now under the Schedule as well.

I just wanted to highlight that point one more time that we believe if we're going to do this, then all entities should be subject to the merit-based process through the Appointments Commission. But again, I don't have any problem with this amendment that's somewhat related, but doesn't address our main concern with this Schedule.

Thank you.

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

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

Carried.

On motion, amendment carried.

CHAIR: Shall the Schedule, as amended, carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, Schedule, as amended, carried.

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

CHAIR: Shall the enacting clause carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I do wish to propose an amendment to the long title. I believe this would be the appropriate time to do that. Is that correct?

CHAIR: We haven't called it yet.

MR. KENT: Okay. I just don't want to miss the opportunity, Madam Chair. I appreciate your patience.

That will be called next?

CHAIR: Yes.

MR. KENT: Okay, thank you.

CHAIR: I appreciate your enthusiasm, given the hour of the day.

MR. KENT: I appreciate you being reasonable and understanding.

Thank you.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

Shall the enacting clause carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: All those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, enacting clause carried.

CLERK: An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments.

CHAIR: Shall the long title carry?

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Madam Chair.

I believe this will be the final amendment that I will propose here – I was going to say this evening, but it's now morning. I guess in House of Assembly world, though, it's still Monday. That's the remarkable thing about how days work in this House of Assembly. It's still Monday here, regardless of what the clock says. But I don't think Monday will continue too much longer.

I want to propose an amendment to the long title because some of the significant amendments we proposed earlier this evening, particularly those related to clauses 6 and 7, failed. They either failed or were ruled not in order. The ones in clause 6, I believe, were ruled out of order. The challenge is that was an opportunity to make the processes more independent.

So now we have a process that's not independent. Because we don't have a process that's independent, it feels like the long title of the act is inaccurate. I won't talk about this at length; I'll simply make the point that, in the interest of accuracy, the long title should be amended to truly reflect the legislation because it currently doesn't. So I'd like to propose the following amendment, Madam Chair, to the long title.

The long title to the bill is amended by deleting the words "Independent Appointments Commission" and substituting the words "Appointments Recommendation Commission."

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

According to O'Brien and Bosc, page 770, under The Title, "Amendment to the long title is sometimes possible once consideration of the bill is concluded. The title may be amended only if the bill has been so altered as to necessitate such an amendment." That is not the case with the bill here this evening, so the Chair rules the amendment out of order.

We'll call the vote on the long title.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, title carried.

CHAIR: Shall I report Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, with a number of amendments, carried?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

The hon. the Government House Leader.

MR. A. PARSONS: I move, Madam Chair, that the Committee rise and report Bill 1.

CHAIR: Shall I report Bill 1 carried with amendments?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

AN HON. MEMBER: Division.

CHAIR: Division has been called.

Division

CHAIR: Order, please! Are the Whips ready?

AN HON. MEMBER: Yes.

CHAIR: The Whips are ready. Okay. All those in favour, please stand.

CLERK: Mr. Andrew Parsons, Ms. Coady, Mr. Joyce, Mr. Byrne, Mr. Haggie, Mr. Hawkins, Ms. Cathy Bennett, Mr. Kirby, Mr. Trimper, Mr. Lane, Mr. Browne, Ms. Gambin-Walsh, Mr. Mitchelmore, Mr. Letto, Mr. Bernard Davis, Mr. Derek Bennett, Mr. Holloway, Mr. Bragg, Ms. Pam Parsons, Mr. Warr, Mr. Finn, Mr. Reid, Mr. Dean, Mr. King.

CHAIR: All those against, please stand.

CLERK: Mr. Hutchings, Mr. Kent, Mr. Brazil, Ms. Perry, Mr. Kevin Parsons, Mr. Petten, Ms. Michael, Ms. Rogers.

Madam Chair, the ayes: 24; the nays: 8.

CHAIR: The motion is carried.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

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

SOME HON. MEMBERS: Hear, hear!

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

MR. SPEAKER (Osborne): Order, please!

The hon. the Deputy Speaker.

MS. DEMPSTER: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have carried Bill 1 with amendments.

MR. SPEAKER: The Chair of the Committee of the Whole reports the Committee have considered the matters to them referred and have carried Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, carried with amendments.

When shall the bill be read a third time?

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

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

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

MR. A. PARSONS: I move, Mr. Speaker, Order 4, third reading of Bill 1.

MR. SPEAKER: It is moved and seconded that Bill 1 be now read a third time.

Order, please!

The hon. the Member for Mount Pearl North.

MR. KENT: I won't take my 20 minutes in third reading, but I just want to –

MR. SPEAKER: We're not at third reading yet.

MR. KENT: We're not?

MR. SPEAKER: No.

MR. KENT: Oh, I'm sorry. Okay, I thought we were. I apologize.

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the amendments be now read the first time.

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Against?

SOME HON. MEMBERS: Nay.

MR. SPEAKER: Carried.

CLERK: First reading of the amendments.

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

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

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Those against?

SOME HON. MEMBERS: Nay.

MR. SPEAKER: Carried.

CLERK: Second reading of the amendments.

On motion, amendments read a first and second time.

Debate at Third Reading (Bill 1 of 2016)

Commenced and Concluded on May 16, 2016¹⁷

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

MR. A. PARSONS: Mr. Speaker, I call Order 4, third reading of Bill 1.

MR. SPEAKER: It has been moved and seconded that Bill 1 be now read a third time.

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Mr. Speaker.

I guess I'm a little overeager this evening – this morning – whatever time it is. I won't speak at length here in third reading because we've had ample time earlier today, this evening and now this morning to raise concerns about Bill 1.

Unfortunately, because some very significant amendments were not ruled in order and were not ultimately approved by the House, our major concerns with Bill 1 remain. We had an opportunity here to have strong legislation that would put an Independent Appointments Commission in place which we would be prepared to support. But now we still have a process that allows the government to appoint anyone they want and pretend that the process was somehow independent. That's not acceptable to us. There were a number of good amendments proposed that we feel would have strengthened the legislation.

There was an effort made to ensure that even the initial appointments to the commission were, in fact, independent and free from political influence. But instead now we have a veil of legitimacy attempted to be placed around a process that won't be any different at all. Appointments will still be made behind closed doors by Cabinet.

So it's disappointing that we couldn't arrive at a point where we could support this bill. We were hopeful that through the process we'd make amendments that would get us to a place where the bill would be better. But even after several amendments passing, it's still a piece of legislation that's very flawed and doesn't result in a commission that's independent. We don't have a commission that can make appointments.

Those flaws are fatal ones. We did make an effort to make this commission truly independent and to make the process more accountable, but unfortunately government was not prepared to do so. So it's with much regret that I can't support the passing of this bill.

I do thank Members for the opportunity to have a good debate about it. We did have a good discussion in the past number of hours about the bill. But it's still not one that we can support, even with the few amendments that have been made, because the major concerns around making this thing non-political and making this thing independent – those concerns have not been addressed at all.

It's disappointing, Mr. Speaker, but I've made my arguments as best I can, as have other Members of both Opposition parties. I'll now take my seat.

Thank you.

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

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

I, too, am somewhat disappointed this evening in that the amendments we had put forth were done within the spirit of the bill and in good faith. It was great to have the debate here this evening.

It's disappointing, in terms of our first amendment, where we talked about using all the tools at our disposal in order to be able to improve the functioning of the Independent Appointments Commission. I also wonder, Mr. Speaker, if we had used all the tools at our disposal that are available to us in this Legislature – and if we'd had an all-party standing committee where this legislation would have gone to that standing committee and some of the bugs could have been worked out – what kind of shape would it have been when it came to this House?

I think again, Mr. Speaker, that I would raise that issue. We should be using all the tools at our disposal to be able to make this House more efficient, to be able to bring legislation into the House once it's ready to be brought into the House because it would have gone through that level of consultation and collaboration before reaching the House. I'm somewhat disappointed that is not the process that's being used. It's a valuable tool, a useful tool that enriches and assists us as we look at legislation, and look to make legislation that is in the best interests of the people and in a way that best uses the resources of this House.

Thank you very much, Mr. Speaker.

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

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

I'm very happy to actually stand here and speak to the passage, the third reading of Bill 1, the flagship piece of legislation for this new government. It was one of the biggest promises made by our Premier. We're very happy to stand here and see passage of Bill 1.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: Once you get past some of the commentary otherwise, what we're seeing here is a change, a dramatic change in how business is going to be done. We're going to be going away from the days of persons being put in positions based on who they know, rather than what they know.

I'm very proud to stand here – we've seen this over the course of a couple of months now where this process unfolded. We're seeing a process where the Public Service Commission will be involved. There will be a vetting of applicants. There will be different lenses applied to ensure that diversity and regional representation – I find it funny that I'm standing here speaking to this and the Member for St. John's East – Quidi Vidi has to heckle me. I guess she prefers the political patronage approach that's been used in

¹⁷ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-16.htm>

the past. I sat and listened to her commentary during the debate tonight. Do you know what? I think it was an important debate that we had here in this House.

I just made a few points here based on some of the commentary I heard opposite. I said all along standing here, having been on the other side, I understand how Opposition works. I'll never say the job of Opposition is to just oppose. I'll never say that, but there is some of that in there in that you do have to oppose. In this case, I get that the job of an Opposition is to raise awareness and to hold government accountable, but to say this is no different at all is absolutely false.

Right now, until the passage of this bill, we have a process that is no process at all. An individual can be placed in a position, such as the head of Newfoundland and Labrador Housing. They could be put on any number of boards. They could be put as the head of development corporations like Bull Arm. The fact is it was not based on any process whatsoever. Now that's not talking about the person's capabilities. Do you know what? The fact is there were many cases where people who qualified were appointed, but there was no process ever. In this case we do have a process.

This process is not over. We've gone through third reading, hopefully soon, and the fact is a resolution will be put on the floor of this House of Assembly outlining who the members of this Independent Appointments Commission will be, and that will also be debated by Members of the House of Assembly. They'll have an opportunity to speak to the individuals who are placed on this board. They'll have an opportunity to question whether they should be there or not there, or have the ability to make the best decisions to put people in the public service.

Right now, I don't know if it's a case that the Opposition would prefer to continue the politicization of the public service that's gone on. What we want is a public service that works for the public, and that means we have the best people there, people that go through a proper level of scrutiny by an independent commission. I'm very happy to see that here.

I appreciate the fact there were amendments put forward, but I would disagree with what the Member opposite said – well, we put the amendments forward. It's not the fault of government if those amendments are out of order. We deal with the amendments that are put forward. In this case we did agree on some of these amendments, but a large number of them weren't acceptable. They couldn't pass muster. You couldn't even vote on them because they didn't get approved.

I heard commentary from the Member for St. John's Centre talking about the select committees and the standing committees. What I would say is we're going to get there. We've been here five months; we're going to get there. But I would note that contrary to what has been done in my short period of time – I reached out to Members opposite on March 23 and said: What are the amendments you would like to see?

One of the reasons I suggested that was you could put them forward and we could discuss them to see do we like them, do we not like them, what are our issues with them. Also, we could talk about the wording of some of these resolutions. In some cases, I'm sure if we took the time to actually have them scrutinized by Legislative Counsel they would have been approved, but they weren't.

We had the NDP put theirs forward some time ago. In fact, I asked for them and they put them forward the next day in a press release. That's fine; there was still an opportunity to put them forward. I put forward an opportunity to work together and the NDP didn't want to work together. They did not want to. So it's one thing, they asked for it, but then when you offer that chance, they don't want it.

I put it forward to the Members opposite. They put them forward today. So what I would say is it's one thing to complain, but it's another thing when you have an opportunity to try to do something different, sometimes you have to take that opportunity. In this case, they didn't.

I'm not going to let any of that get in the way. I think this is a moment that certainly we here on the government side are very proud of. This was a commitment that was made well before an election campaign. This is something our Premier talked about in this House of Assembly, talked about it out there in the streets and said we need to take the politics out of appointments. Right now, we have followed through on that and made that happen. So I think the Premier certainly deserves commanding for making that happen.

I look forward to commentary from the Members opposite. I look forward to the resolution being put forward. More importantly, I look forward to the Independent Appointments Commission getting the opportunity to do the work so that the boards, commissions and agencies that right now, in many cases, are sitting vacant can have qualified individuals put forward to allow proper governance for the best interests of the people of this province.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

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

I wasn't going to get up. I thought I'd said everything I wanted to say, but I think in reply to some of the points made by the Government House Leader I do want to stand up. What we put out here tonight, and especially in one of our recommendations put out by the Member for St. John's Centre, are a belief in an open process and a belief in an all-party process that is open and transparent. What I want to see in this House is not things happening by chance or privately, or behind doors and not openly, because we discuss bills openly.

So an offer by the Government House Leader to sit down and look at resolutions or amendments ahead of time before the bill is even discussed on the floor of the House is not the way to do business. At some point, in the last nine hours, I talked about our Standing Orders and talked about what our Standing Orders say with regard to committees, standing and select committees.

If we operated the way that they do, for example in the House of Commons or the way they do in a lot of the provincial legislatures, after second reading, with an identification of issues that were of concern, you then openly in the all-party committee discuss those issues. If you want to have people with expertise in an area – that may not have been the case for this bill today, but if you want to have people involved in that discussion, you openly invite them into the committee and have those discussions and you iron out together in an open all-party session – sessions; I'm sure it takes more than one. I know that.

You iron out together those things, not in the way that was suggested to us by the Government House Leader. So we were open to that, but we don't have that process in place and that's what we need to have. We have it in place on paper. Our Standing Orders allow that to happen that the House of Assembly can refer to any standing committee pieces of legislation to deal with. That's how it operates in other legislatures, but not in this one.

So our only option, the way you do it, is in committee. And, for us, that is not in committee outside of the Legislature; it's always Committee of the Whole. This is the only way we have to do it. But if government brings in a bill and expects that we're going to make the changes based on this dynamic, it's not going to happen. And being a majority government, they have the power to vote down anything that we say.

The amendments we brought forward were substantive amendments dealing with two very serious issues. This government has shown itself that it wants to keep control of the process, number one – that's why they voted against our first amendments – and they are not open to putting in legislation the need for diversity in this process.

So I don't see changes from what we have right now. They've put in place an extra layer of bureaucracy, they've given it a name, they've created legislation that they've passed; but the bottom line is they put the commission in place, they say yes or no to recommendations that are made to them, and it's all in their hands. I'm tired of the game playing and saying that a resolution is coming to the floor and we can debate it. Well, we saw what happened here in the last nine hours of debate on this act, and that's all that's going to happen when the resolution comes to the floor as well.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

SOME HON. MEMBERS: Hear, hear!

MR. KIRBY: Thank you, Mr. Speaker.

I'm really pleased to have to an opportunity this evening to say a few words in third reading of this bill. I didn't really speak up much when the Members spent the three or five hours or whatever it was today going over clause 1. I just want to reflect on some of the things that they said and respond.

One of the first things the Member for Mount Pearl North came out with on this bill was that somebody had said the legislation was flawed. He said: This is your signature piece of legislation and it is flawed and you admit that it's flawed. Because Bill 1 is always meant to be that shining bill – he didn't use that language, but your signature legislation.

So what was the signature legislation of their administration after they took office in October 2011? What was their Bill 1? Do they remember? Their Bill 1 was a piece of legislation – their signature piece of legislation wasn't an independent commission for appointments. It was making changes to public procurement.

Now, Bill 1 received first reading in the House of Assembly, went on the Order Paper. The text of the bill was never made public, it never went to second reading, it never went to

Committee, it never went to third reading, and it died on the Order Paper. Now that was their signature piece of legislation. To stand here and say that this one, which we've now come to third reading on this evening, is flawed – this is passed almost. Their bill never saw the light of day. They didn't even have the courage to release the text to the public, their signature piece of legislation. So don't sit there and criticize that.

I'm proud that we all accepted amendments to this legislation – we did. When I sat in the last Assembly, I don't even remember one time that government allowed one single amendment. I can't remember a single instance all the times we begged and pleaded for amendments over Bill 29. We begged and pleaded for amendments over Muskrat Falls. We begged and we pleaded and we pleaded and we begged and they ignored the Opposition. Don't care. They said we have a majority; we'll do as we like. Run roughshod over the place. No amendments accepted; don't even bother to stand up.

That's how the Opposition was treated in the previous Assembly. Here tonight I'm proud to say we all worked together to achieve a good piece of amended legislation, together.

SOME HON. MEMBERS: Hear, hear!

MR. KIRBY: I don't want to go on too long, but I just want to make a couple of points. I know the Members of the Third Party got up. They talked about the need for diversity and I couldn't agree more.

Here's a political party now, that's thrown full-day kindergarten under a bus. All those single moms out there who could have kids going to kindergarten, could have decent early learning and care programs, where's your concern for diversity there? Where's your concern for diversity there when all of these people, all of these single moms who could actually have an advantage for once – no, no, not concerned with diversity on that policy, but on this policy it's A1, number one priority. Hypocritical, I say.

I won't go on too much longer, but I just want to say, Mr. Speaker, there are a lot of good things about this piece of legislation. I just want to review a couple of them briefly.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. KIRBY: Thank you, Mr. Speaker.

I just want to review some of the clauses of the legislation because I think it's incredibly important that we acknowledge what exactly we've done. Now there's going to be an Independent Appointments Commission established. That is going to be a commission made up of five members.

That commission is going to be involved with the vetting of individuals for the purposes of appointment to public bodies based on a merit process, so not based on the political process that the previous administration adhered to for 12 years with very few exceptions – with very few exceptions.

It was interesting tonight because I know the Member for Mount Pearl North's favourite mode of communication is Twitter, and I noticed that Wallace MacLean had tweeted a number of very insightful news stories about the previous administration's record when it came to patronage appointments. It was something they did quite frequently.

Well, I don't want to get into details but they talked about everything from the Bull Arm Corporation to the Chief Electoral office to practically – I'll go back to the C-NLOPB. You can practically go back and look at all of these particular boards, these different public bodies. A good number of them turn up throughout there, but we're not going to have that anymore because we're going to have a merit-based process.

Now, the Opposition does not want that. The Official Opposition does not want to have that process. They want to have the old process. Why do they want to have the old process? Why do you think they want the old process? Because they figure when they get a chance to get back over here again the only way they're going to be able to revert to their 12 years of practice of appointing people to head public agencies based on the colour of their political affiliation is they have to amend this bill again to go back to the old way of doing things, to go back to the system of patronage that has served us poorly since Confederation and beyond and before – well before. An ancient system of patronage that they adhered to for their whole time. They never –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. KIRBY: They did not at any point in time show any willingness to proceed in this direction at all. At no point in time, and continue to defend. I hear the Member for Fortune Bay – Cape La Hune over there continuing to defend this past practice which has not served the province well.

The Government House Leader said, yes, some of these people are qualified. That's not the point. That is not the point. These public bodies, these public agencies are our public agencies. They are not our public agencies, they are the agencies that are owned, that are established, that are funded by Newfoundlanders and Labradorians and all of those people should have an opportunity to submit themselves to a merit-based process whereby they can at least get some consideration.

It shouldn't be, as one of the Members suggested opposite, that you get the name from somebody and you hand it along and you hope or whatever, and you try to – it shouldn't be that way. It should be transparent. You should be able to see as much as is reasonable to see in the process. That is what's going to happen here now, because these positions will be publicly advertised. They will be publicly advertised.

People will be able to provide their résumés, show what their credentials are, show what their years of experience are, show what their education is, show what volunteer experience they have, and the fullness of their ability will be assessed. Then they will be shortlisted, the same as in any job competition. Those people will be put on a short list – three of them – and they will go to Cabinet for final consideration.

That is a far better process than what we have had in place in this province to date. And you'll say, well, it's not perfect. Well, maybe it isn't perfect, but what is perfect? I would prefer to have something that is imperfect than to have a

system that just rewards politics, sheer, raw politics and absolutely nothing else. Even despite the fact that people might have qualifications that is irrelevant in a lot of these considerations.

When you see someone walk off the convention floor down at a PC Party leadership convention and within a few months walk into a five-year appointment with a public agency with no competition, and for somebody to stand there and say, well, this has nothing to do with political affiliation. People in this province are not that dumb. In fact, people in this province are very smart, and to a person they see through that kind of raw political patronage. That's why during the last general election people liked the idea of an Independent Appointments Commission. This was a commitment that we made and a commitment that we kept.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

SOME HON. MEMBERS: Nay.

MR. SPEAKER: Carried.

CLERK: A bill, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments. (Bill 1)

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

A bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments," read a third time, ordered passed and its title be as on the Order Paper. (Bill 1)

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

MR. A. PARSONS: Given the hour of the day, Mr. Speaker, I move, seconded by the Minister of Education, that this House do now adjourn.

MR. SPEAKER: It's been moved and seconded that the House do now adjourn.

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Against?

Carried.

Resolution to appoint the first Independent Appointments Commission

Notice of Motion, May 25, 2016¹⁸

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

MR. A. PARSONS: Mr. Speaker, I give notice that I will ask leave to move the following resolution: a resolution respecting the appointment of members of the Independent Appointments Commission.

Be it resolved by the House of Assembly as follows:

WHEREAS subsection 6(3) of the *Independent Appointments Commission Act* provides that five members are to be appointed to an Independent Appointments Commission by the Lieutenant Governor in Council on a resolution of the House of Assembly; and

WHEREAS subsection 6(4) of the act provides that the Lieutenant Governor in Council designate one of the members of the commission to be chairperson;

NOW THEREFORE BE IT RESOLVED that the following persons be appointed members of the Independent Appointments Commission: Mr. Clyde K. Wells, chairperson; Ms. Zita Cobb; Ms. Shannie Duff; Mr. Philip R. Earle and Mr. Derek Young.

* * *

Debate, May 26, 2016¹⁹

PREMIER BALL: Thank you, Mr. Speaker.

As we do often in this House, you push pause, play and record and so on. But the House Leader there just handed me, of course, and when I was reading this, I wanted to put it through to allow its due course. Of course, it's not like the House Leader at all to actually do this. He's usually much better than this, yet today, Mr. Speaker, it is my pleasure, I will say, the hon. the Minister of Justice and Public Safety, to move:

WHEREAS – I am very proud today – subsection 6(3) of the *Independent Appointments Commission Act* provides that five members are to be appointed to an Independent Appointments Commission by the Lieutenant Governor in Council on a resolution of the House of Assembly; and

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: WHEREAS subsection 6(4) of the act provides that the Lieutenant Governor in Council designate one of the members of the commission to be chairperson;

NOW THEREFORE BE IT RESOLVED that the following persons be appointed members of the Independent Appointments Commission: Clyde K. Wells, Chairperson; M. Zita Cobb; Shannie Duff; Philip R. Earle; and Derek Young.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

As well, before we call for debate on the motion, I would like to welcome to the Speaker's gallery and to the House of Assembly the hon. Clyde K. Wells, former chief justice and former premier; Ms. Zita Cobb; Shannie Duff; Philip R. Earle; and Derek Young.

Welcome to our Legislature.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: We're now debating the Independent Appointments Commission, and I will ask if the House is ready for the question?

Any debate on the question?

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Mr. Speaker.

Is the Premier speaking to this motion?

PREMIER BALL: Yes.

MR. SPEAKER: Okay.

MR. KENT: Okay, I'll sit down and let the Premier speak first.

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Thank you to the Member opposite for the privilege of speaking to this bill first, Bill 1. Mr. Speaker, it's my pleasure today to rise in this hon. House to speak to our government's inaugural piece of legislation. This is an important piece of legislation for our province. One that ensures an appointment process that is focused on merit, appointing what will be the most qualified people and creating one of the most open, non-partisan processes in Canada.

Mr. Speaker, this is something that I have discussed and talked and debated and had much discussion on now for many, many years. It was something that I've always felt, whether I was Leader of the Opposition or in this current chair, it was always something that I always said I would advocate and promote for our province.

Mr. Speaker, the important work that we have in our province around agencies, boards and commissions, these boards and commissions deliver some of the important services to Newfoundlanders and Labradorians. What's critically important for us is that when we have those boards, commissions and agencies in place, that we put in place the most experienced members and Newfoundlanders and Labradorians that we have available to us to serve on those boards. We think about the big decisions that are made

¹⁸ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-25.htm>

¹⁹ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-26.htm>

around health care, around education, our K to 12, post-secondary education.

Natural resources; the big decisions that are made around the development of natural resources. We think about the impact that Nalcor is having on our province in terms of the Muskrat Falls Project and how important it is to have individuals who sit on those boards and those agencies that are able and equipped to make the best decisions for Newfoundlanders and Labradorians.

Mr. Speaker, on top of that, something I want to add is that the budgets of these agencies, these boards and these commissions make up 43 per cent of the total government expenditures and 75 per cent of the total public sector employment in our province. A substantial part of our budget, a substantial part of the decisions that are made in our province lies squarely with those boards, those agencies and commissions. They play a valuable role in the activities in our province.

Mr. Speaker, Newfoundlanders and Labradorians, as residents, as people who actually use – they are the constituents who actually use the services that are often governed and impacted by decisions around those appointments. Those residents, Newfoundlanders and Labradorians, they must have confidence in the people seated to lead those agencies, those boards and those commissions because they are making decisions that have a big impact, that have a definite impact on delivering the important services to the public.

We, as a government, and I, as a Premier, have committed to improving the appointments process so that we are doing just that. So that we are achieving the best outcomes. We are putting in place the best people in our communities, in our province that are put in place to lead those decisions-making processes.

Mr. Speaker, for the first time in Newfoundland and Labrador, a merit-based appointment process will be in place to put people who are interested in serving Newfoundland and Labrador – for the first time in our history, we will now have a merit-based process in place.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: Mr. Speaker, the legislation creates the opportunity for people to apply for a position to an agency, on one of those boards or commissions. This merit-based process we are implementing, as a result of this legislation, allows people who would not normally be given the opportunity to sit in those important roles, to actually play a role for Newfoundland and Labrador. We now give them the opportunity because they can apply for themselves.

These are normally people who would not have undertaken such activities. They would be interested, and in many cases they watched it from afar, but now as a result of this decision and this legislation, people can apply. If they come forward with their interest, put their resumes out there, then, Mr. Speaker, we have an Independent Appointments Commission that is designed to take the politics out of all this.

Mr. Speaker, this is a very fair process. It is based on merit versus who you know. It gives greater accountability, greater transparency and it improves organizational governance. We know some of the big decisions we make as a province squarely lies with those agencies, it is with those boards, it is with those commissions. Now finally, we have an opportunity put in place people who could help us make those decisions that are in the best interest of our province.

Mr. Speaker, you'll take the recommended names, these recommended names will go to Cabinet and the ministers responsible for the various departments. It will be generated through the professional merit-based appointment process. This assessment will be done. It's not a political identification process. It's a decision that will be made when people show their interest to apply for those positions.

Mr. Speaker, I also want to talk about the valuable role of the Public Service Commission in all of this. This is a longstanding institution that we have within government. Over the course of the debate we see Members opposite ask questions related to why the Public Service Commission is recommending names for the bulk of the agencies, boards and commissions.

Mr. Speaker, I want to expand on that. I want to expand on the role of the Public Service Commission. To support the Independent Appointments Commission, the Public Service Commission will serve as the secretariat. They will be the resources that will be required to help the Independent Appointments Commission to do their work. As a secretariat, they will work with government departments to develop the skill and the qualifications, a profile for each of the agencies, for those boards and those commissions. So once that profile is developed, it is then – as we put this information out there – people can apply for those positions.

Mr. Speaker, this is the first time this has ever been done in our province. Mr. Speaker, I would argue that when you look at all the provinces that we have across the country, this is something that is truly unprecedented. This is indeed groundbreaking and this is something that I think – and I will predict and forecast that in the future you will see other provinces put something like this in place.

The Public Service Commission is, as I said earlier, a longstanding, independent and impartial government agency. Its primary focus is ensuring that a professional and non-partisan public service has the authority to require the appointments to the public sector jobs, which is based on merit. We are using the experience that we have in the Public Service Commission right now as a secretariat to support the Independent Appointments Commission.

Mr. Speaker, the new merit-based process and the Independent Appointments Commission – we will all benefit from the experience that we see within the Public Service Commission. The Independent Appointments Commission will get the benefit from that experience; therefore, Mr. Speaker, better decisions can be made. With better decisions, we will have better decision making at our boards, agencies and commissions.

If people are interested in applying – this is people in our communities all throughout Newfoundland and Labrador. If they are interested in applying for any of those positions, the profile that we have for those positions – if you apply there, that application, that resume will be kept in place for two years. This allows the Public Service Commission to match the qualified individuals with the vacant positions. This is an important piece. Because we have people all across our province that are keenly interested in sitting in those positions, once you apply your profile, your resume, will be kept intact, will be kept in place for two years.

Mr. Speaker, the independence of the Independent Appointments Commission is extremely important and so is the role of the Public Service Commission. Establishing the appointment process in legislation signals our commitment to a process that is open and is based on selecting qualified,

highly skilled individuals for a specific position – for a position, for the seats on those boards.

As I said, they actually manage many of the large budgets. We see our health care boards, our education boards, the Nalcor board. We see the many, many other boards in our province right now that manage some of the biggest budgets we have in our province. This gives the everyday Newfoundland and Labradorian who is equipped and has the expertise and the interest in doing this – this now gives them, finally, the opportunity to be able to do that.

Mr. Speaker, it is clear from the recommended members of our commission, that we have in place some of the most highly respected and capable individuals that we have in our province. As the names were read out, I will say that I've received a number of messages over the last few days about the qualifications of the Independent Appointments Commission. The individuals that are in place, they truly have the experience. They have the wherewithal, as we'd say in our province, to make the decisions, put people in place that are truly qualified with the recommendations that they would make to their departments and to our Cabinet.

Mr. Speaker, I want to reiterate and repeat one more time how important this is because those five members are offering up their time. They, themselves, are volunteers, and that speaks loudly.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: We have people all across our province who spend a lot of time volunteering in their community but when you get the opportunity in this particular case to bring people in with the ability, with the experience that we have in those five individuals – truly skilled, highly respected across our province, names that people will recognize – volunteering their time to make decisions that will impact all Newfoundlanders and Labradorians.

Mr. Speaker, as Premier of this province, I can tell you right now I am truly honoured that they have all accepted. They have accepted on behalf of our province to lead the first Independent Appointments Commission in our province.

Mr. Speaker, the commission itself will recommend three individuals for approximately – we have 30 tier-one organizations in our province. Many of you would know who those tier-one agencies and boards would be. These are things like the Board of Regents at Memorial University, at Nalcor. It's the Housing Corporation and so on. We have 30 of those very important tier-ones.

Why are they tier one? Often because of the responsibility that exists within those tier-one boards and agencies but also because of the budget process and the amount of dollars and the economic impact it is having on our province.

The Independent Appointments Commission, as I said, will recommend three individuals for the approximately 30 of those tier-one organizations that we have. These are the organizations with the greater decision-making responsibilities and the larger budgets that we see in the province.

Mr. Speaker, at all times the Independent Appointments Commission will be expected to act in an independent, non-partisan manner. I'm going to repeat that. At all times the Independent Appointments Commission will be expected to act in an independent, non-partisan manner. That's critically important. It's critically important and I have no doubt in my mind when I look at those five individuals that they will do

this and they will do it because it's actually what they've done all their lives. Mr. Speaker, they will make good decisions, good sound decisions on behalf of our province.

Bill 1 expanded the scope of the Public Service Commission to include the development of a merit-based recommendation for appointments to those boards, agencies and commissions.

For the tier-two organizations; we have 128 tier-two organizations. These are some of the smaller boards we have. They are sprinkled throughout our province. They support many of the departments and many of the communities that we would see around Newfoundland and Labrador.

Mr. Speaker, the role of the Public Service Commission in those tier-two organizations, again, is critical because what they will do, they will review the applications and assess the skills and provide a list of individuals qualified for the appointment by ministers.

And we have many, many examples of these boards. So we will have the Independent Appointments Commission leading the appointments and making the recommendations to the tier-one boards, and we had the Public Service Commission now leading the appointment process for our tier-two boards.

Mr. Speaker, there are other agencies and there are other boards and commissions that are not included, and in those situations – because we have many, many organizations that support the role of government throughout our province. Indeed, many of those are internal. We want to say thank you for the work that is normally done in these particular cases by our public service employees.

So, Mr. Speaker, we have volunteers from every single community, all the areas, all the organizations in our province, and I think all of us – Members in this House of Assembly – really appreciate the work that volunteers do on all those boards.

So we have our tier-one boards. The responsibility for those recommendations to Cabinet will be through the Independent Appointments Commission. We will see the role of the Public Service Commission then supporting the tier-two boards.

Mr. Speaker, as part of the mandate of the Independent Appointments Commission and the Public Service Commission, they will work very diligently to develop the initiatives and to address any of the identified representation that is needed. It is very important that these agencies, the boards and the commissions, reflect on the communities they serve.

This is important, because when you look at our boards and our agencies it's important that we have the gender balance, it's important that we include youth, it's important that we include people that live in all the areas in our province. If it's in Western, if it's in Labrador, Central, in Eastern – all the areas. People living in those communities, there are areas of interest that need to be reflected, because what we see within those boards is a reflection of who we are as a province. So it's important that when we go looking for positions to be filled on those boards that it reflects what Newfoundland and Labrador truly is.

I can assure you that within that lens, as the names of the merit-based people that are experienced and can do this job, these are the decisions that we anticipate under this lens that we will see boards and agencies reflect really who we truly are, and the services that we require as a province.

Mr. Speaker, this is the strongest commitment to removing politics from appointments in our province in the history of Newfoundland and Labrador. It is one of the best processes that we see not really in the country right now. As I said earlier, I would anticipate that you will see other provinces follow the lead of this Legislature, follow the lead of what we are doing in our province and put in similar processes in the future.

Mr. Speaker, during debate on Bill 1 some Members questioned the role of government and the Cabinet in making the final decision on appointments. So I think it's important for me now, as Premier, to address this today and to be very clear that the job as a government is to make decisions that are in the best interests of Newfoundlanders and Labradorians. As a government and as elected officials, you cannot delegate that responsibility.

We're elected with the responsibility to make the decisions for Newfoundlanders and Labradorians. We will use processes like the Independent Appointments Commission to make sure that we can access and have available to us the best people that we have in Newfoundland and Labrador to serve on those boards and those commissions. The delegation of the responsibility to make the final decision squarely rests and clearly rests with the government of the day, Mr. Speaker.

Legislation governing these boards is enabled by legislation that requires that Cabinet make their appointment. What we are doing today is ensuring that we have a very reputable process in place, taking the politics out of these appointments, making sure that we put in place an independent thinking process that enables us to challenge the best and brightest minds that we have in our province right now to sit on those boards and help us as a province make the best decisions that we can for our future.

Mr. Speaker, regardless of what the debate has been, when you compare what we're establishing here today to what we've had in the past, I would say this is a far cry from what we've seen on previous processes. I know from my own role in our communities that I volunteered for many, many hours and I've volunteered with some very capable people. I can assure you that the people out there are willing to get involved. This is a process that will help them put in place the best people to make this decision.

When you look at this and you say, okay then, if Cabinet is going to have the final say, well, then what prohibits a Cabinet or what prohibits government to actually just ignoring the work that this Appointments Commission is going to do. I would challenge you to look at those five names that you see on this paper – look at those five names that you see there. Are these people that would actually tolerate that they would put themselves out there in a volunteer capacity, they would volunteer their time to allow them to go through a process and recommend names to a Cabinet or to a minister only to see those names dismissed? I can assure you that from what I know of those five people, that's not the five people that we're recommending today.

They would tell this Premier, they would tell any premier, they would tell any minister where to go if they were constantly – if their decisions were ignored, and I would encourage them to do that.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: Mr. Speaker, the Member for Bay of Islands just reminds me of some of his past and maybe he has been – but, Mr. Speaker, I won't go there; I think enough said about that.

I can assure you that we have some highly skilled, respected individuals that have volunteered their time and their decisions will be respected by this government.

Mr. Speaker, the recruitment process and the desired skills and the appointment will be public. It is a public process, as it should be, because this is about being open, accountable and being transparent to Newfoundlanders and Labradorians.

As I said, ultimately it's a government that will be judged by their actions. When you see those names that will be made public, well then it will be determined that if you reject a recommendation that – of course, to reject those recommendations is not something that I foresee this government doing.

Mr. Speaker, we value the input that those commissioners are doing. We value the work. We value their time. I can tell you what the recommendations that will come to Cabinet, will come to the ministers, I'm anticipating that those names would be accepted.

Mr. Speaker, if we find ourselves in an exceptional circumstance that this could not be done, well then the public will know and the commissioners would have to know as well.

In some cases, finding the individuals that are required to actually do the job, we may have to broaden the search, and this is not unusual when you look at the recruitment that we see today in key positions in our province. But at all times a position that can be proven to be challenging to fill, we will broaden the search because what's important is to get the right people in place in those key positions.

Mr. Speaker, all the appointments will be done openly and we will be, as a government, accountable for them. We'll be acting in the best interest of the province and placing the focus on merit, not who you know. This is about a merit-based process; it is an independent appointments process.

The report mechanisms in Bill 1 will ensure that it is open and it is accountable. The reporting process will allow for this to be the most open, most transparent and most accountable process when it comes to appointments that we've ever seen in the history of our province.

Mr. Speaker, to support the increased openness and transparency, a website is in the process of being created. This will be live in the next few days. The website will include – so the information that you will see there is really the background information. This is important because when people consider applying for those positions, we need to give them the information, all the background information that will help them make the informed decision that they need to make.

The terms and the vacancies for the available positions – so people will need to know what the commitment is. Is this a two-year commitment, a three-year commitment? What is the commitment that we're being asked to do? The vacancies – when these vacancies become available are important, so people can actually make plans if indeed they are interested in all of this. People need to know where they are in their lives so they can actually plan for those things.

Mr. Speaker, the opportunity for people to apply online once the website is live. Appointments for specific agencies, boards and commissions, those opportunities where you put your information in, we will use the website to enable us to do that.

Additionally, a report will be submitted annually to this House, to the House of Assembly, and an order-in-council will be available online for appointments made through the process of Cabinet. Once the processes and the appointments are finalized, of course you will see that information made available as well.

Mr. Speaker, I spoke a few minutes about gender and diversity and making sure that we have both men, women, youth and people from all areas of our province – making sure that we have as much gender and diversity that we would have. This is all part of this process that we're establishing here today. This is important for us so that we actually truly reflect the communities in our province.

We have made it quite clear that we will take gender equity and diversity very seriously through this process. We encourage women, we encourage all Newfoundlanders and Labradorians to actively participate and seek out leadership roles.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: That's what we have to do because the leaders in our province, Mr. Speaker, this gives them an opportunity to use the experience that they have to take that, in some cases, to the next level on some of those most important.

We want to see our young men and women get involved and making themselves available for those positions, Mr. Speaker. This open process allows this to occur. It gives them the opportunity where, in the past they would, in many cases, have been overlooked.

We would like to see the agencies, board and commissions to be as diverse and reflective, as I said, as the communities we all live in. Women and all Newfoundlanders and Labradorians are encouraged to take advantage of the opportunities we are now putting before them. We are challenging people. We are challenging all individuals in our province to look at the opportunities that will now be available to them as a result of this process.

To assist many of the women we have available – because it's important to us that we get the gender equity we have in our province – we will engage the Women's Policy Office as well as many of our community and advocacy groups that we have available to us. This is important. It is a position that we will be taking and we will be making sure that we will be encouraging young women and women all across our province and our young people in all communities to get involved in this.

The Women's Policy Office will also be working with the Public Service Commission to help us develop a process to ensure that equity and diversity is considered throughout this. This process, ultimately, is about merit and the importance of diversity is a key part of this process. Mr. Speaker, I would say not only is it a key part of the process, but it is also a key part of its success.

For the first time, in an Independent Appointments Commission we are following the same set of rules that the Public Service Commission will follow also. We have sought some highly qualified individuals whose experience reflects the broad representation of our society as well as the knowledge of industry. We see it with our social and economic development in our province. This process is a critical process as we see the successes of our boards and our agencies in the future.

The people of the province will trust the actions of government. They want to trust the actions of government and what we see here, through this process, is one other way in enabling them to do this. This is why we have brought forward the names of the individuals for the commission to a vote. This is something, again, in this House – to create the independence, all Members in this House of Assembly will be given the opportunity to vote and debate amongst our Members.

What happens after the initial three-year term expires? What happens with this commission? When the initial three-year term for the Independent Appointments Commission ends, we will look for replacements and have the existing commission members make the recommendations for government.

I say, Mr. Speaker, that is kind of the unique set when you look at the first commission that gets in place. From here on, the next commission then will also be part of the process of enabling who the Independent Appointments Commission is into the future.

The first three-year term, and they are then asked to be engaged in the selection of who the next Independent Appointments Commission is. Mr. Speaker, I think that is pretty unique when you think about all of this. These appointments then will also be subject to a resolution right here on the floor of the House of Assembly.

The terms will be for three years, plus the option of a one renewal per individual. This will ensure that the members of the commission are given a fair and adequate time to thoroughly adjust to the role and the responsibilities. We often see, Mr. Speaker, no matter what you're doing, that three years can go by pretty quickly. So this gives them an opportunity to actually expand with a second term.

Mr. Speaker, I mentioned before that these are volunteer positions. These are unpaid positions and we need to be respectful of the time consideration. So three years – in some cases when you look at the conditions we're putting in place here, that too, but we'll leave that to the best judgement of the people who are in place.

Mr. Speaker, I would now like to introduce the proposed individuals and give a brief overview of the skills of the individuals that we now know, those five names that have been introduced.

The first one is the hon. Clyde K. Wells. As a matter of fact, even in this chair I would suggest – there's no introduction required for this individual. Mr. Wells has had an extensive legal and a long political career. He's made a big difference, I can assure you, in Newfoundland and Labrador.

He's a name that's known just not to Newfoundlanders and Labradorians, but he's a name that comes up no matter where you go in our country. He is known nationally for the work he's done. We really appreciate the fact that he's able to accept his role in this.

He was "A graduate of Dalhousie Law School. Mr. Wells built a thriving legal practice before serving as the fifth Premier of Newfoundland and Labrador from 1989 to 1996."

Even in the times we face today, many people often refer to the tenure of Mr. Wells when he served as premier. I can assure you there were some difficult times then, but as Newfoundlanders and Labradorians we made it through, just like we are today. I know we will get through this tough spot we are in today. People like Mr. Wells have laid the

foundation for us as a province that will help us get through the difficult times. He has shown us the way, I would suggest, in the past.

Not only did he not stop there, he continued his career as he "... served as a justice of the Supreme Court of Newfoundland and Labrador (Court of Appeal) and was appointed Chief Justice of the province in 1999, a position he held until 2009. Mr. Wells remained as a supernumerary justice in the appellate court until his full retirement from the bench in November 2012." It doesn't really seem that long ago because I don't think his work ever stopped actually. He has continued to work.

He now practices, of course, with a law firm here in St. John's. He also serves as a chairman of the board of directors at that law firm. Mr. Speaker, I'm pleased to say that he will chair the Independent Appointments Commission.

"Zita Cobb is Chief Executive Officer and founder of the Shorefast Foundation, which uses a social entrepreneurship model to contribute to cultural and economic resiliency for Fogo Island." All of us, I think, are familiar with the impact that Shorefast Foundation has had on Fogo Island.

She is known I think – I guess if you look at the icon you would associate her with, it would be "the Fogo Island Inn, Fogo Island Arts, Fogo Island Shop and Fogo Island fish." Certainly someone that Newfoundland and Labrador has come to know. She's had a considerable impact on Fogo Island but really a considerable impact in the province in general. She "has considerable experience in the telecommunications industry and has received Honourary Doctorates from Memorial University, Carleton University and McGill University, as well as a Honourary Fellowship from the Royal Architectural Institute of Canada and the Dr. Gill Chin Lim Global Award."

Her resume speaks for itself. I think those qualifications that I just outlined there, I think she is truly equipped to serve as a member of the Independent Appointments Commission.

Third, is Shannie Duff. Again, a name that is synonymous throughout Newfoundland and Labrador. She "served on St. John's City Council from 1997 to 2013 where she served as Mayor, Deputy Mayor, Councillor-at-Large. She also briefly served as a member of the House of Assembly. Throughout her municipal career, she has been a strong advocate of developing strong and sustainable communities. Ms. Duff has been a champion for affordable housing, inner city revitalization, heritage conservation and environmental sustainability." – within the City of St. John's and throughout the province. "Ms. Duff has been inducted into the Order of Canada and Order of Newfoundland and Labrador and received a honourary doctor of laws degree from Memorial University. She has also received the Anne MacLean Award of Excellence by the Canadian Federation of Municipalities." So the third individual, I can assure you I think is fully equipped to serve in this capacity on the Independent Appointments Commission.

"Philip Earle is a business partner and Chief Executive Officer of Air Labrador Limited, an Inuit-owned company" and one of the world's oldest successful operating airlines. "While growing the company, Mr. Earle has placed considerable focus on building human resource capacity by promoting Labrador Inuit to key positions" within the airline. It's a true partnership that Mr. Earle's been part of. His "background is steeped in rural and indigenous communities where he has built strong knowledge and experience through working with aboriginal leaders and understanding their culture and values. Mr. Earle also serves on the Board of Directors of the Air

Transport Association of Canada and Destination Labrador." Again, someone who's fully equipped to sit as a commissioner and a member on this commission.

"Derek Young was the Ford franchise leader for 31 years operating four locations on the province's west coast and in southern Labrador. Mr. Young was the first chairman of the Ford Motor Company National Roundtable Board consisting of Ford Motor Company and Ford dealer representatives and also served two years as a Director on the Federation of Automobile Dealers Association of Canada and two years as President of the Newfoundland and Labrador Dealers Association. Mr. Young received MacLean's magazine's Newfoundland and Labrador Dealer of Excellence Award in 1996."

When you talk about volunteers, I can assure you that if you're on the West Coast, Mr. Young is widely known for the work he's done at Western Memorial Regional Hospital and that foundation which led to many fundraising initiatives. He served in that capacity for six years.

Mr. Speaker, in conclusion today, I would like to thank these five individuals for agreeing to be nominated. They are an impressive group of individuals, I would say. They have a long history of serving the interests of Newfoundland and Labrador. Government, and the people of the province, will undoubtedly benefit from their leadership, their role of ensuring the most qualified individuals fill the available positions within agencies, boards and commissions.

As I've stated, Mr. Speaker, the new merit-based appointment process that we are creating will be a fair, measured process. It is a process that will provide greater consistency and transparency. It will improve organizational performance and enhance the quality of public services and public confidence. Mr. Speaker, I believe it will also provide a more meaningful experience for the appointees.

Mr. Speaker, I believe with this piece of legislation, the boards, the agencies, the commissions within our province – I believe in our province in a general sense, and I believe that the role of government is enhanced and will be better and these decisions will be in capable hands as a result of the work and the efforts of the Independent Appointments Commission.

So, Mr. Speaker, I want to thank those individuals and I look forward to the continued debate on this resolution.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Any further debate on Motion 12?

The hon. the Member for Mount Pearl North.

MR. KENT: Thank you, Mr. Speaker.

I am pleased to rise today and speak to Motion 12, to appoint the Appointments Commission, the initial five members. Mr. Speaker, let me say up front that I intend vote in support of this motion, and I suspect that there will be other Members of the Opposition that will do the same. The comments that I'm about to make will do nothing to take away from the qualifications and the experience and the credibility of the five individuals that are being appointed today.

Let me begin by extending my congratulations to the five appointees: Clyde Wells, as chairperson; Zita Cobb; Shannie Duff; Philip R. Earle; and Derek Young. These are well-

known, capable, credible community leaders and business leaders. So I congratulate these individuals on their appointments and commend government for selecting qualified, capable people to serve in this role.

However, Mr. Speaker, I need to reflect on some of the Premier's comments, and I also need to highlight some of the concerns we have here today about process. Our issue is not with the appointees. These are great citizens of our province. Our issue is with the process.

During debate on Bill 1 the New Democratic Party brought forward an amendment regarding the appointment of the first Liberal Appointments Commission. Bill 1 said that the Cabinet would choose five names to bring to the House in a resolution. The Opposition Parties wanted to take this out of the hands of Cabinet so that it would be independent, as the name of the act implies.

The NDP amendment came before ours and it stated: The commission shall consist of five members selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly. The House debated the amendment and voted it down, unfortunately.

So after this, we attempted to bring forward four different amendments, but all of these amendments were ruled out of order because the NDP resolution had been voted down, and because of the connection to the NDP amendment. Our first amendment was to have the Public Service Commission undertake a merit-based process to choose eligible candidates, to send those candidates' names to a select committee, and to have the select committee draft a resolution to the House.

Our second amendment was to an all-party select committee of the House choose the chair of the Liberal Appointments Commission. This is important because it's the chair who determines which Appointments Commission members review which appointments and make recommendations.

Our third amendment was to have an all-party select committee of the House review the appointments committee rules so there would be a multi-party lens on those rules. Mr. Speaker, we still believe that all of these things are the right things to do.

Our fourth amendment was to have an all-party select committee of the House, not Cabinet, choose any replacement commission members when the House is closed. We believe that all four of these amendments would have strengthened the legislation and made the Appointments Commission actually a little bit independent, but the government voted down the NDP amendment and never had the opportunity, as a result, to vote on our four subsequent amendments.

So we're left with the process before us now with five candidates selected by Cabinet. Again, I don't want to say anything at all negatively about the character or the abilities of these five individuals. These are strong, confident, capable Newfoundlanders and Labradorians. I more than hope, I believe that they will take seriously the oath of impartiality that another of our amendments established. We expect they will do a thorough job. I don't doubt that at all, but I respectfully say to them, Mr. Speaker, that the truly sad thing is that the government you are now agreeing to work for can and will at times completely ignore your recommendations and no one will be the wiser, contrary to what the Premier would have you believe today.

We brought forward amendments to expose instances where Cabinet ignores the recommendations of the Appointments Commission. One amendment would have required a public report whenever Cabinet appoints someone other than a person that the commission recommends, and that has to be exposed, Mr. Speaker. It's a critical point because if it is not exposed, the entire process is a sham, particularly if Cabinet pretends an appointee was recommended by the commission when that wasn't the case.

The Liberal government, once again, voted down our amendment. The Premier's only suggestion, which he sort of joked about today, is that the commission members can resign if their recommendations are ignored, but the government makes it appear that they recommended the appointees when they did not.

Well, I say to the Premier and I say to the Members of the government that's not good enough. Perhaps, as a result of members resigning or speaking out or not tolerating that kind of behaviour of Cabinet, perhaps we will find another way to learn when the commission's recommendations are ignored.

We also called for an annual independent review of the merit process to ensure it's being respected. Government voted down that amendment as well. I found it ironic to hear the Premier talking about diversity and gender today, when that was another amendment that was voted down. An amendment that was put forward by the NDP – I can't recall if it was voted down or ruled out of order.

MS. MICHAEL: Ruled out of order.

MR. KENT: I was ruled out of order; I apologize. It was ruled out of order because it would not be in line with the merit process. That's really unfortunate.

We called for an annual independent review of the merit process and government voted that down. It's really unfortunate that I have to stand in this House and say this today. We have a process that doesn't live up to the promise that the Liberals made when they said they were going to take the politics out of appointments.

This is no reflection on the appointees that are here in this Chamber today, Mr. Speaker. It's a reflection on the process. It's the process that is flawed. I wish these individuals well with their work. I have no doubt they'll do their best, but they're working under a flawed piece of legislation. They're working within a process that is, unfortunately, to a large degree, smoke and mirrors; because, at the end of the day, this respected group of citizens, who will volunteer their time to do this work, can't make a single appointment. They can only make recommendations and those recommendations will be discussed behind closed doors in ministers' offices and in the Cabinet room.

That's not fair. It's not fair to the people of the province. It's not fair to the individuals who are going to do this work on behalf of the people of the province. It shows complete disrespect for the electorate because it's yet another broken promise by this Liberal government. I can't name one they've kept yet, Mr. Speaker.

I want to pick up on some of the Premier's additional comments today around how groundbreaking this all is. We're not fooled and I don't believe the people of the province will be fooled either. The Premier surely didn't suggest today again that Bill 1 and the establishment of this commission provides a groundbreaking example of something that's actually independent, or even an example of an independent appointments process in Canada, because that

wouldn't be accurate. In fact, Mr. Speaker, Ontario has had an Independent Appointments Commission for decades – decades. Ontario has had a standing committee on government agencies since 1978 – a great year in Newfoundland and Labrador.

MR. HUTCHINGS: Mount Pearl.

MR. KENT: And in Mount Pearl.

Initially, the function of the committee was to select and review a small number of agencies and boards and commissions each year, but in 1990 the standing committee was given a fresh mandate and there were changes made 25 years ago in 1991. That mandate reflected recommendations of an all-party committee report in 1986. So it's interesting that we could have learned a lot from some of the experiences, good and bad, in other provinces in Canada.

So that committee now reviews intended appointees to agencies, boards and commissions and of directors to corporations in which the Crown in right of Ontario is majority shareholder. Intended appointees may be requested to appear before the committee to discuss their qualifications. The committee reports back, not to a secret Cabinet group, but to the legislature, on whether or not it concurs with the intended appointments.

At the outset in Ontario, Mr. Speaker, there were over 5,000 appointments to be considered by the committee. Complementing the work of that standing committee in Ontario is the Public Appointments Secretariat. That secretariat is to ensure the most qualified women and men having the highest personal and professional integrity serve the public on the province's agencies and other entities. Persons selected to serve must reflect the true face of Ontario, in terms of diversity and in terms of regional representation. The amendments put forward to this government related to diversity and regional representation were not supported.

So there's a lot we can learn from other jurisdictions, but to suggest in this hon. House, for the Premier to stand in his place today and suggest once again that this is groundbreaking when it exists in other provinces, it's very unfortunate, Mr. Speaker, but I doubt people of the province are surprised by that kind of behaviour from this Premier.

Ontario also has a Tribunals Accountability, Governance and Appointments Act, which enforces a competitive merit-based process in order to ensure the tribunals are accountable, transparent and efficient in their operations while remaining independent in their decision making.

So let's look further west, beyond the Ontario example. Ontario's not the only province that makes appointments based on merit. In British Columbia's *Public Service Act* Part 2 you'll find a position called the merit commissioner. Before you get to Part 2 you'll notice the act applies "to any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant Governor in Council declares this Act, or a provision of this Act, to apply."

The merit commissioner doesn't report to Cabinet, "The merit commissioner is an officer of the Legislature and must (a) faithfully, honestly and impartially exercise the powers and perform the duties of the office" The Legislative Assembly in British Columbia must not recommend an individual to be appointed as merit commissioner "unless a special committee of the Legislative Assembly has unanimously recommended to the Legislative Assembly that the individual be appointed."

In British Columbia, "The merit commissioner is responsible for monitoring the application of the merit principle under this Act by (a) conducting random audits of appointments" So we put forward an amendment that there should be an annual review to ensure compliance with the merit principle. Something very similar exists in British Columbia.

In addition to that, the commissioner is responsible for also assessing whether "the recruitment and selection processes were properly applied to result in appointments based on merit, and (ii) the individuals when appointed possessed the required qualifications for the positions to which they were appointed" The commissioner must also ensure that the audit results are reported to deputy ministers and other persons having overall responsibility for ministries, boards, commissions, agencies and so on. That's a great example of a merit review in British Columbia. We could have learned from that as well.

We brought forward a series of amendments that would have made this process more respectable and more legitimate, and would have shown more respect for the role that these individuals are going to play in this process. That's what we attempted to do, Mr. Speaker. At the end of the day, even if all the amendments had passed, we still believe there would have been fundamental flaws with the approach and with the legislation, but we did our best to make it better.

Granted, there were a few amendments that government supported and there were some changes made. The most significant changes, the ones that I've just spent the last 15 minutes or so outlining, were rejected and they weren't rejected for good reason. They would have added some legitimacy and credibility to this process that government continues to claim is going to be independent.

It's not independent if all the decisions get made behind closed doors at the Cabinet table with no accountability, Mr. Speaker, other than forcing people to resign. It's hardly an Appointments Commission if these individuals are going to give hours, days and weeks of their time and not be able to make appointments. They're only going to be able to make recommendations and decisions will be made behind closed doors. That's not respectful. We could have done better. We proposed amendments that would have made it better.

While I support the resolution today, and while I think government has done an excellent job in identifying five outstanding Newfoundlanders and Labradorians to take on this challenge on behalf of the people of the province, I respectfully suggest once again for a final time to this House of Assembly that the process that they're going to have to work within is severely flawed. It represents yet another broken promise by this Liberal government.

Let me finish, Mr. Speaker, by once again sincerely congratulating the five individuals who have been chosen. As I said at the beginning of my remarks, these are outstanding community leaders and business leaders who I have no doubt will serve the province to the best of their ability. It's unfortunate they don't have a better set of rules to work within as they do so.

I wish them well with their work. I know they'll do their best to serve the people of the province. For that reason, I'm very pleased to support Motion 12 today.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

I am delighted to stand this afternoon and speak to the resolution that's on the floor. As my colleague for Mount Pearl North said, and I will repeat, my very first thing is to congratulate and thank the five members of the commission. I, too, say five upstanding members of our community. It's almost an insult to say that to them. I hope they know the contribution they have all made in different ways in our community in this province.

SOME HON. MEMBERS: Hear, hear!

MS. MICHAEL: They've taken on a very, very important job, an extremely important job. I think we all know – we don't have to give details or anything, but we're all, most of us, old enough to remember things in this province where a lot of people got into positions because of who they knew in a political party, got into positions because of who they knew in government. I think what has happened here with the bill that was brought forward by government with Bill 1 is an attempt to undo that history in this province.

We're not the only province who's had that history. I mean, let's recognize that fact. We're not the only ones who did. Other provinces have taken action to try to undo that kind of appointment process that has gone on. We don't want it to continue. We want to do everything in our power to make sure it doesn't continue. The appointment of this commission is a step in undoing that history in this province.

Having said that, I do want to speak to my concern about the process that has been put in place, not about the people who have been appointed. I need to refer to our discussion in Bill 1 because Bill 1 was the legislation that has enabled what we're doing here today.

One of the biggest concerns we had as a caucus and I had about Bill 1 was the very appointment of the commission itself, the process of appointment of the commission. There are lots of pieces of legislation where individuals or boards get appointed in our province, and appointed by government. Very often, you'll say in consultation with the other parties, in consultation with the Opposition.

One of the things that was so striking about Bill 1 and the section I was concerned about, "WHEREAS subsection 6(3) of the *Independent Appointments Commission Act* provides that 5 members are to be appointed to an Independent Appointments Commission by the Lieutenant-Governor in Council on a resolution of the House of Assembly."

I remember when I read that for the first time in the bill when I received it, I wrote on the outside: no consultation. And we raised that issue here in this House by bringing in an amendment, an amendment that was in order, asking that the commission be appointed yes, by LG in Council, but on recommendations from an all-party committee; not on recommendations from individuals in Cabinet or Cabinet to itself, but an all-party committee that would do the recommendations of who should sit on the commission. That would be real, active consultation.

And we have examples of such consultation happening in the province right now. I pointed this out in the debate on Bill 1. The work that we've done on the All-Party Committee on Northern Shrimp – I'll speak to that one because I'm sitting on that Committee – and the fact that we could, two days ago, or three days ago, sit in front of the federal ministerial

advisory committee and present jointly, in total unanimity, a position with regard to the Northern Shrimp, a position with regard to the LIFO policy, and something that we came to after hours and years of work.

It wasn't something that happened overnight. We were first formed in 2014 and we didn't automatically agree on all points. We all agreed LIFO shouldn't happen, but did we agree on things like offshore, totally out of one of the fishing areas, SFA 6. We didn't all agree on that initially. We took time together and we did present a completely unified position to that federal panel on Tuesday. We were proud of that work and it's a real example that all-party committees, which we're not used to in this House, can work can work. It is something that we have to move forward on.

We were extremely disappointed when government voted against that resolution. We weren't asking, as the Premier implied when he spoke, to make the appointments. We absolutely know that the final decision has to be in the hands of the Lieutenant Governor in Council. We're well aware of that fact and that phrase refer is in the bill, throughout the bill, and we accept that.

However, we believed, and still do, that the recommendations to LG in Council should come from an all-party committee. That would have been an ultimate step in openness and transparency with regard to the whole process, actually having the commission recommend it by an all-party Member of the House of Assembly.

Now, having said that, the Premier did say to me in debate that I shouldn't be concerned and I would happy with the people they would come up with, and I am. I am; however, it shouldn't be by chance. It shouldn't be hoping that government is going to make right decisions.

When you have a piece of legislation that's based on chance, that's not good enough – that is not good enough. I'm really delighted that today I can honestly look at all these five people and say welcome and I applaud you and I am delighted that you are on this commission.

One of the points that were raised in the debate on the bill the Premier said to me in debate that you'll get your chance because the resolution will come to the House of Assembly. The resolution will come to the floor and you will be able to speak to the resolution and debate it. That's the consultation. That's your role.

I said back, to the Premier, well, that's not really true because when names are brought to this House of Assembly, we are not going to stand in this House and take apart somebody in this House. We're not going to do it.

MS. ROGERS: It's not appropriate.

MS. MICHAEL: It is not appropriate, as my colleague has just said. It's not appropriate and that's not the way it should be done.

I'm delighted today that I don't have that concern, but what if there was somebody sitting in the gallery right now that I really believed should not be there? I'm not going to stand in this House and say it. That's not going to happen.

So from that perspective, what I said in the debate of Bill 1 I want to repeat. Any piece of legislation can be changed, and I would hope this government will continue to think about the debate we had here in the House on Bill 1, and maybe the next round, for process sake – not because we don't have a good group now, but for process sake an all-party committee

would be put in place to come up with the nominations. We still stand by that as something that really is necessary in order for the process to be completely open.

When we debated Bill 1, we had another resolution as well, which was ruled out of order. I'm not going to speak to that part, because my colleague from St. John's Centre will speak to it. It's extremely important for the commission – and I think we have it – the members of the commission, that it be representative of experience, representative gender-wise, representative of region. We have that on this commission. This is something that has to be a concern of ours throughout the whole process. This is one of the things we're going to have to be worried about.

I'm not going to repeat everything I said in the debate on the bill. As I said, overall the bill was somewhat acceptable; however, it started with a basic flaw. The fact that is still there is bothersome to me. I voted against it for that reason, because you want the first step to be completely open. Especially because the ultimate decision is government's decision. It is ultimately the LG in Council.

At the most important moment of the process, why should government be cutting off consultation? Bringing it to the House is not consultation. We all know it's affirmation when it comes to appointments. We affirm, because we're not going to stand here and speak against an individual or a group of individuals, we're not going to do that. I'm pleased today that I have no desire to do that, because we have five wonderful individuals.

I look forward to being able to communicate with the commissioners. I think they probably would like us to do that. That if we have concerns we let them know. I don't mean in any kind of way of influence. I mean before they start the work, not related to the work, but overall concerns that we raised during the debate on the bill. I think it would be good for them to hear it. I don't think we'll lay on them to say, go sit down and read Hansard. I don't think they need to do that, but certainly I think communicating with the commission, letting them know our concerns I think is our responsibility and we certainly will take that very seriously.

Having said that, Mr. Speaker, once again I congratulate the members of the commission. I thank them for taking on this responsibility. I have great trust that when we do communicate with them and we share with them the concerns we have with regard to the process, as they now will carry it forward, then they will want to hear what we have to say.

Just one more point, because part of that process – and I think this is where a challenge for them is going to come in. Part of the process will be the relationship with the Public Service Commission. The Public Service Commission has its own process of hiring, or making recommendations for hiring. I think the commission is going to have a great responsibility in making sure that what they want will work with what the Public Service Commission does.

That will be something they're going to have to try to work on and figure out. That one, I have no idea how that will work but I have no doubt the commission will see that as a responsibility of theirs.

Having said that, Mr. Speaker, once again thanks to the commission, and thank you.

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

MR. LANE: Thank you, Mr. Speaker.

It is certainly an honour once again to stand in this hon. House and speak to the resolution.

Mr. Speaker, I did want to take a few moments because I didn't speak to the bill but certainly as an independent Member I think it is important for all of the bills, but at least I put it on the record where I stand on particular issues. I intend to do that each and every time, even if it's just simply to say I endorse something or I'm against something for the record and to be accountable to the people I represent.

Mr. Speaker, as has been said, and I don't want to be too repetitive but I do want to put it out there. I want to join everybody in, first of all, not congratulating the five individuals who have been selected but thanking them. Because as we know, they are doing this on their own accord. They are doing it without remuneration and they're doing it because they believe in Newfoundland and Labrador, as we all do.

I sincerely do want to publicly thank them for the work they're going to undertake. I have absolutely no problem whatsoever with the individuals who have been selected. They are all outstanding individuals in their own right. I don't know them personally, most of them, except for Ms. Duff, I know through the municipal world. Our paths have crossed on numerous occasions. I know she's a fine person, a very intelligent person. I know she'll do the right thing. The other people I know more so through reputation. I have nothing but the utmost respect for each and every one of them. I know they will do a great job and they will take this role very seriously.

That being said, Mr. Speaker, I think it is important just to reiterate some of the points that have been made here today, and some of the points that were made when we had the actual debate. Just a couple of the concerns that I have; the first one is when it comes to – and I just want to talk about the tier-two for a second.

Before I talk to tier-two, I also want to say that given where we are right now at this very moment, I see this bill as an improvement. As it currently stands and as it has stood in the past, it was all totally political appointments. The minister could appoint whoever he or she felt like appointing and there was no independent process at all. There was nothing. Building upon that, whatever we do, I think is going to be an improvement.

So I would say that right off the bat. Putting in legislation to try to make the process more independent is a positive thing. I agree with that in principle, but there are some specific issues with the particular bill.

Speaking to the tier-two, first of all, basically the way the bill is written and the way it would go now is if you had appointments available on various committees – and we know there are a lot of committees. In some committees people receive remuneration, and in some committees they don't receive any remuneration, but I guess their expenses are paid and so on.

A lot of these tier-two committees, some of them have more critical roles than others might have. For some of these committees there may be a requirement for people that have some sort of special training or experience. Perhaps on a particular committee you may want somebody who has an accounting background, maybe you'll want someone who would be a chartered accountant, maybe you would want

someone who has business experience, maybe you would want someone with a legal background and so on.

For a lot of the other committees, though, a lot of the positions, there may be people who it may not necessarily be required to have any of those special qualifications or degrees or whatever, but it's just a requirement to obviously be an individual through different work experiences and so on who have the knowledge and experience to serve on some of these boards and committees.

The process that's going to be in place now is that would be advertised through the Public Service Commission. Anybody can apply. That's a good thing, and that there is a big improvement. The fact that it now goes out publicly and anybody can apply as opposed to if the minister or somebody happens to call you up because they know you or you're in a certain circle where someone says there's a committee, are you interested in serving, that type of thing. Now it will be totally open to anyone. That's a positive thing.

At the end of the day, the Public Service Commission are going to screen those people to determine whether or not they meet, I would assume, the basic qualifications to serve on a particular committee. Then those names are going to be forwarded to the minister, a list of all those individuals who meet those basic qualifications, and then the minister can choose whoever he or she decides they want to choose.

Again, what this process is doing – I guess at best what it's doing is it's ensuring, at least, that the individuals who are placed on committees, that they at least meet the requirements and they are at least capable and qualified to be on those committees. That's a good thing, but if you had say five positions on a committee and you had 20 people who applied for those five positions and all 20 of them met that basic qualification or criteria, and there are 20 names, then the minister still has the option to pick five of those 20.

Who is to say that the five that particular minister or department chooses are not the five people they want to choose for their own partisan reasons or whatever? I'm not saying that's going to be done. I'm just saying it's open to that. In that regard, it's not really changing a whole lot. The only thing we're guaranteed in the process, we are guaranteed that the Public Service Commission have determined that the individuals on the committees are qualified to be on the committees but we're still not guaranteeing there is no partisanship involved in selecting the people of that larger list. That's one flaw that is here as I see it, for the record.

The other one, of course, we talk about the tier-one candidates. Again, now we're going to go through a double process whereby you would apply through the Public Service Commission. They would do an initial screening to make sure the individuals meet the basic requirements for the position. Then those names will go to the Independent Appointments Committee and they will take that list of five or 10, or whatever it is, and they will get it down to three.

The Public Service Commission is making sure the people are qualified, and the Independent Appointments Committee are going to make sure that of those people, the best three are on the list. That's an improvement to what we're currently doing, and I applaud the government for doing it. I agree with that, but as has been said, the problem you have is when the names go to the committee, if they come up with a recommendation and it's only a recommendation of three names, there's nothing to stop a particular minister from saying: Do you know what? I don't want any of those names. I was hoping a certain individual was going to be on that list.

They went through the process and they didn't end up on that list, but I want that person there anyway. So I'm going to reject those three names. I'm going to put the person who I wanted there anyway.

If that were to happen, the public would not be aware of it. I think that's why there was an amendment put in, or something saying if three names go forward and the minister chooses to pick an individual who wasn't on the list – we're not saying you have to post the names of those three people, but at least there should be some public disclosure to say that someone was chosen who wasn't on the list, and that's not there. So there's nothing to stop that from happening.

This is not accusing any particular minister of doing it. The thing is if this legislation is placed, or if the government changed in four years' time or in eight years' time or whatever, it would apply to whoever that is. It's got nothing to do with what party you're with or whatever. It has to just do with the process. That's a loophole that exists in the legislation. What was being suggested is there should be a way to close that loophole and it's not there. So it's a concern. I'm not saying that it would happen, but it's a concern.

We do know the Premier had said these are professional people on this commission, and if that type of thing were to happen they could quit. He said they could quit. Do you know what? I honestly believe if that were to happen I believe they would quit, because they are fine people. I know they wouldn't put up with it. I know they wouldn't, but the point of the matter is that the loophole still exists. That's the point.

MR. KING: (Inaudible).

MR. LANE: I'd ask the Member for Bonavista, if he wants to make some comments he's certainly welcome to when I sit down.

Mr. Speaker, those were a couple of the main concerns. Certainly, I know there was another concern that was raised by one of the Members in the NDP during the debate. That had to do with diversity, whether it be gender or region or cultural diversity, whatever the case might be, to be more reflective of our society.

While I'm very glad to see gender and regional diversity, in this particular case, was taken into account – and that's a good thing – I think what they were looking for is that it should have been included in the legislation to say it should be a consideration for the Independent Appointments Commission, and for that matter for the Public Service Commission in tier-two appointments as well or recommendations. That should be a factor. It should be in there to say that's a factor.

I have every reason to believe that, as far as the Independent Appointments Commission goes, they will take that into account. I believe they will. Obviously, it can't out trump merit, we all know that. You can't say we have great people here, but we're going to pick somebody who doesn't meet the qualifications or they're not a good fit just for the sake of diversity. When we have qualified individuals, then we should take in diversity as part of that equation. I'm sure they're going to do it anyway, but it's not included in the legislation. That was the point that was being made here and that's a point I would have to agree with.

The last point I just want to raise – and it speaks to the three names. I don't think it's here, correct me if I'm wrong, but I believe that if they're going to recommend three, personally, I would like to see them ranked. Potentially, you could have

three individuals and one person could be head and shoulders above the other two in theory, but a list of three names is what goes in there.

Personally, I think it would be even better again if they were ranked one, two, three. Be that as it may, under this legislation even if they were ranked one, two, three, the minister has the right to simply disregard all the recommendations and do what he or she wants anyway, which, again, goes back to that flaw.

Other than that, Mr. Speaker, that's all I wanted to say about it. I do support the legislation. I support the legislation from the perspective that it's much better than what we're currently doing. It's definitely a step in the right direction. I definitely support the individuals who have been chosen, but it is important to be able to note that there are legitimate concerns, legitimate issues, legitimate amendments which could have been made. I think it really ties into the whole concept even of the all-party committees which we hear about all the time, where some of these things could be hashed out before it ever got to the floor of the House of Assembly and then we would have much better legislation anyway for all legislation.

So those were the only points I wanted to make, Mr. Speaker. Thank you for the time. I will be supporting the legislation.

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

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

I'm very happy to rise and to speak to this resolution. What we have at hand is an incredible, incredible appointment to our commission and the task at hand for these people who have been risk takers, who have been community builders, who have been builders of our province on so many different levels, the task at hand for them is to find our brightest and our best. Our brightest and our best community builders, visionaries, those who are risk takers, with various experiences to be able to help our province move forward, to be able to help in our agencies and our boards and our commissions in the operation of our province.

What an incredible task that has been given to them, and how lucky are we to have such an esteemed collection of commissioners to do so. So I commend that, Mr. Speaker, I feel very thankful, and I'm sure the people of Newfoundland and Labrador feel incredibly thankful and grateful for those who have said, yes, I will serve my province in this way in the next three years.

I will imagine that although we are in extremely challenging times right now, with an incredible fiscal challenge, that it's also an exciting time, an exciting time to say we can do this, we can move forward and we can help find the people in the province who can best help us do that.

So what an incredible, wonderful task, and I believe a privilege and an honour to have these people fulfill that task for us; but also an incredible privilege and an honour for these commissioners to be able to do that, to have the honour to be able to find our best and our brightest and our most appropriate to fill the positions that will continue to come up in the next three years.

Again, these folks, our commissioners, have in their own rights, have been visionaries, and I know they will bring that experience to the task that they have on hand.

What I would like to speak to today once again, as I spoke in the House on previous occasions, is the missed opportunity in the legislation that was before us. A missed opportunity to embed, to ensure that we have gender representation, gender equity and diversity represented in all of our agencies, boards and commissions.

We would all like to think that it's 2016 and that is a given, yet all we have to do is to look in our House, to look around us at all the desks here and out of the 40 Members of the House of Assembly, we have nine women who were elected; only 28 per cent now of our House of Assembly have women representatives. That does not reflect the true diversity of our province.

When we look around in terms of cultural diversity, when we look around and look at the situation of indigenous people, again our numbers are so underrepresented. So although we may believe in it in theory, although we may believe in it in practice, although we may support it we do not see the actual concrete realization of those beliefs or of that political leaning or of that philosophical leaning. We cannot leave it just to chance. We cannot leave it to luck because it doesn't work. It simply doesn't work.

We have a policy here in Newfoundland and Labrador where there is a gender analysis, a gender lens, applied on all legislation that comes before the House. We have seen, in the last few weeks, this has not happened. It was not applied to our budget and we can see how women are disproportionately negatively affected by the current budget that is before us. That gender analysis, that gender tool, was not applied to the budget.

The gender analysis and the gender tool which was supposed to be applied to every piece of legislation before coming to this House was not applied to Bill 1, the Liberal flagship bill. Although we may all say, oh, we truly believe in equality. It's not going to happen. It doesn't happen just because of somebody thinking that it should happen.

We need to have those policies and guiding principles embedded in our legislation and those policies and guiding principles must be embedded in legislation for the Independent Appointments Commission.

I believe it's a missed opportunity. I know that we will rely on the goodwill and the experience and the vision of the commissioners who are currently on the board. When we look at the status of women across our country, across our province, we can see how just goodwill doesn't work. It's not embodied in the realities of our day-to-day living. That is a missed opportunity.

I raised this issue before in the House when we were speaking about the bill. The way Denmark approached the issue in their country on under representation of women is that they made legislation that would require 40 per cent representation of women, 40 representation of men and the 20 per cent is up for grabs. It works for them. So there are ways. We know that the United Nations has embedded gender equality and diversity in any of the work that they do. We, too, need to do that.

I want to speak particularly to the issue of women. Women live in every nook and cranny of Newfoundland and Labrador. Women work from stars in the sky morning to stars in the sky night. Women work in the fishery, in agriculture. Women are elected in this House. Women are their community leaders. Women work in their communities. Women are indigenous people. Women are immigrants. Women are differently abled, but we do not see women in our leadership roles.

We found out only a few weeks ago that 96 per cent of top earners in Nalcor are men. I also stood in this House and started reading out the heads, the chairs and the CEOs of our agencies, boards and commissions. It was a tedious exercise because I went men, men, men, men, women, but it's not as tedious as the reality of the fact that so many women embody the leadership roles in our agency, boards and commissions. So it is a missed opportunity that this is not embedded in our legislation.

The Premier said that the Women's Policy Office will work with the Public Service Commission. Well, that has been going on for years. We see some progress but we really have not achieved anything near equality or equity. I would appeal to the commissioners to really keep in mind the need for aggressive actions to ensure that women are recruited, to ensure that women are presented. Merit and gender, and merit and affirmative action, in terms of diversity, are not mutually exclusive terms, that it can be done, that we have a lot of women with a lot of experience and expertise, and it is incumbent upon this House, and it is incumbent upon the commission, to ensure that women are represented. It is to ensure the representation on our boards and our agencies and commissions actually reflect the diversity of our province.

I, again, would like to thank so much the commissioners who have been appointed. Your task is a magnificent task that faces you. Thank you for your vision and for your commitment. I look forward to the appointments that you will put forward, the recommendations that you would put forward.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

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

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.'

I declare the motion carried.

Further Comments on Bill 1 of 2016

Premier Ball during the Budget Debate, May 31, 2016²⁰

As I said, I will talk about the Independent Appointments Commission. Many people in this House on the Opposition side, they have looked at this commission and they have basically made some very negative comments about it and how successful it could be. I will not repeat some of the language that has been used about this piece of legislation that is now passed in this Legislature, but they are critical.

We have five Members on this Independent Appointments Commission who are very highly respected across the province. They are widely known, and they are known because they are Newfoundlanders and Labradorians who have volunteered their time. They have made a difference in our province. They are respected no matter where they go. They will make a difference, I am going to tell you, because the decisions we use – our Public Service Commission, as the names of all Newfoundlanders and Labradorians that for many, many years felt they would never have an opportunity to actually be part of an organization, a board or a commission or an agency in our province.

Many of them wanted to be part of this but because of politics, they were often overlooked. We have seen this, even in the recent year when you look at the demonstrated activities by former administrations who spoke out loudly against this. As a matter of fact, they spent years in government and could have done something like this and just refused to do it; yet, as soon as they were in Opposition they spoke out about it and said, guess what? You didn't go far enough. Well, I can tell you what, we went a lot further than they ever did.

We're very proud of that commission that is now put in place. They will make recommendations of some people that are merit-based, because we need Newfoundlanders and Labradorians who are willing to volunteer their time to help us make the difficult decisions that will have to be made. If it's in education, if it's in health care, if it's in our

communities, if it's in some of the big Crown agencies that we have in government. Things like Nalcor, things like the NLC, things like Housing, our universities and so on.

Newfoundlanders and Labradorians, men, women, youth, people of all ages who have an interest in reaching out and helping us rebuild Newfoundland and Labrador now can be empowered to do just that. All they have to do is put their resume in, go through the process that is required here, and they could be someone who is appointed to lead our province into the future.

The Member for St. John's Centre, June 7, 2016²¹

CHAIR: Order, please! The Chair recognizes the hon. Member for St. John's Centre.

MS. ROGERS: Thank you very much, Madam Chair. ... On May 15, the Women's Policy Office received my request for access to the following records. I asked for all email, written or other correspondence between the Minister of Finance and Deputy Minister Responsible for the Status of Women and the Women's Policy Office concerning applying a gender-analysis tool to Bill 1, An Act to Establish an Independent Appointments Commission, because I had also asked for that, and the response was – I asked the minister again, did she apply a gender-analysis tool against the Independent Appointments Commission.

The response was: Please be advised that the Deputy Minister for the Women's Policy Office has reviewed this request and the Women's Policy Office has no records responsive to your request. The Women's Policy Office has also confirmed with the Minister of Finance that there are no responsive records under this request. So I would assume that there would have been phone calls or emails or letters from the Minister Responsible for the Status of Women and the Finance Minister asking for a gender analysis applied to Bill 1 about the Independent Appointments Commission.

²⁰ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-05-31.htm>

²¹ Link:

<https://assembly.nl.ca/HouseBusiness/Hansard/ga48session1/16-06-07.htm>



HOUSE OF ASSEMBLY
NEWFOUNDLAND AND LABRADOR
Official Opposition Caucus

May 2023

David Brazil, MHA, Conception Bay East - Bell Island, Leader of the Official Opposition
Barry Petten, MHA, Conception Bay South, Official Opposition House Leader
Craig Pardy, MHA, Bonavista, Official Opposition Deputy House Leader
Helen Conway Ottenheimer, MHA, Harbour Main
Paul Dinn, MHA, Topsail - Paradise
Jeff Dwyer, MHA, Placentia West - Bellevue
Pleaman Forsey, MHA, Exploits
Loyola O'Driscoll, MHA, Ferryland
Lloyd Parrott, MHA, Terra Nova
Chris Tibbs, MHA, Grand Falls-Windsor - Buchans
Tony Wakeham, MHA, Stephenville - Port au Port
Joedy Wall, MHA, Cape St. Francis



(L-R) Dinn, Petten, O'Driscoll, Dwyer, Conway Ottenheimer, Parrott, Brazil, Forsey, Wakeham, Wall, Pardy, Tibbs

Input into legislative review

Lane, Paul

Mon 2023-05-15 2:08 PM

To: IAC Review

Under the current legislation, the Minister/Cabinet has the ability to ignore all 3 recommendations of the IAC thus rendering the process a complete waste of time and giving the public a false sense that the positions are being filled independently, without political bias or interference. I propose that this clause be removed from the legislation as I can think of no legitimate reason why it would be required. Should you determine that there may be some legitimate reason for keeping this clause (which totally escapes me) at the very least there should be a requirement for the Minister/Cabinet to report publicly to the House of Assembly that this clause has been used for a particular appointment along with justification for doing so.

Regards,

Paul Lane, Independent MHA
District of Mount Pearl - Southlands



Provincial Advisory Council
on the Status of Women
NEWFOUNDLAND & LABRADOR

May 16th, 2023

David Conway
IAC Review
261 Kenmount Road
P.O. Box 8700
St. John's, NL A1B 4J6

Dear Mr. Conway,

Attached please find a submission prepared by the Provincial Advisory Council on the Status of Women NL (PACSW) in response to your invitation to participate in the statutory review of the *Independent Appointments Commission Act*.

As a Tier One entity scheduled to the Independent Appointments Commission (IAC), PACSW is well acquainted with the Commission and its Act, and has previously submitted feedback to the provincial government in February 2016, April 2019, and July 2021, regarding gender diversity on provincial Agencies, Boards, and Commissions (ABCs). Our submissions have identified several barriers to access and challenges in the ABC appointment process, which act as deterrents to increasing representation of women, women-identifying, and gender diverse individuals in leadership positions, and impede opportunities for success to develop their full economic potential.

One of PACSW's priority areas outlined in our 2020-2023 Business Plan is women's economic security and prosperity. Building on the IAC Act to ensure ABC's reflect citizens from all regions of our province is responsible and inclusive governance. Entities that are reaching gender parity and diversity goals will lead to greater economic growth and prosperity in our province.

If you wish to discuss this feedback further, please do not hesitate to contact me. I look forward to continued work on improving the IAC and the ABC appointment process within the province.

Sincerely,


Paula Sheppard,
President/CEO

STATUTORY REVIEW OF THE INDEPENDENT APPOINTMENTS COMMISSION ACT

Considerations for the Independent Appointments Commission

Timelines – Enhancing the overall efficiency, effectiveness and outcomes of the legislation

It has been PACSW's experience that vacant positions within our agency are not being filled in a timely manner, contravening Section 4(5) of our legislation, the *Status of Women Advisory Council Act*. As noted in Section 2.2 of the Independent Appointments Commission's (IAC's) *Rules of Procedure*, "The primary means by which the IAC will carry out the activities necessary in the discharge of its responsibilities will be through the services and activities provided by the PSC [Public Service Commission] pursuant to the provisions of section 12 [of the *Independent Appointments Commission Act*], through such other things and advice as the IAC may request the PSC to provide, and such other actions as the IAC may itself initiate." Section 2.3 of the IAC's *Rules of Procedure* specifies the duty of the PSC to be aware of the expiration dates of positions, and to address expirations in a timely manner: "The PSC will maintain a record listing of all the positions for which the IAC has responsibility for recommending potential appointees...and the date of expiration of the current term, and, a reasonable time before the expiration date of the term, will draw attention of the Appointing Authority that pending expiration."

The IAC's *Rules of Procedure* also outlines the process by which a person is selected by the IAC as a designated Administrator, who is to be answerable only to the IAC through the Chairperson and whose duties will entail being the liaison between the IAC, including individual Commissioners, and the PSC.

It is unclear what is causing lengthy delays in filling vacancies. It is our recommendation to include in Section 10(b) of the IAC Act, reasonable timeframes to fill appointments to enhance the overall efficiency of the appointment process.

Gender and Diversity

In 2017, PACSW wrote to then Premier Dwight Ball about the lack of gender parity in the appointments process; as mentioned above, PACSW submitted a briefing note to the Minister Responsible for Women and Gender Equality in 2021 regarding analysis of gender diversity on provincial Agencies, Boards, and Commissions (hereafter 'ABCs'), recommending a robust data collection and analysis at the entry point when applicants apply to ABC's. A quantitative analysis was conducted using all available information listed on the Independent Appointments Commission's (hereafter 'IAC') website regarding individuals currently appointed on ABC's. A database was designed to record the information from each ABC to analyze various gender variables.

A noted limitation of this analysis involved the use of judgement in that genders were assumed either based on names, or in cases when names were not "traditionally" gendered, based on gender presentation of the individual in question. An analysis of this sort is not able to capture

anything beyond the gender binary and contains the possibility that some ABC members were misgendered. This analysis also excluded the Advisory Council from the statistics, as historical practice has been in place where appointed members are women. This is a significant gap, and space must be made for gender diverse persons to participate in ABCs.

In summary, this analysis showed that while women are clearly represented on ABCs, their representation is still behind that of men's.

A key recommendation of this analysis was a robust data collection and analysis framework at the entry point when applicants apply to ABC's. A rigorous mechanism such as this will have a higher guarantee of reliability and valid gender diversity statistics within ABC's. Gaps in our analysis due to relying on posted website information meant we were unable to capture data for gender non-binary members. It also meant using only visual judgement and perception to determine gender which does not provide statistically accuracy. To inform inclusive policy on gender diversity in leadership means more comprehensive tools available in this area for data development and data capturing. The following recommendations were made:

RECOMMENDED OPTION 1:

Continue gathering information available on the IAC's publicly available website to analyze gender diversity data of ABC's in the province.

RECOMMENDED OPTION 2:

Collaboratively work with the Public Services Commission to create a more fulsome and comprehensive data collection when applicants are applying to ABC's ensuring gaps such as gender non-binary/ gender-non-conforming persons are genuinely reflected in gender diverse analysis.

RECOMMENDED OPTION 3:

The Newfoundland & Labrador Statistics Agency is the central point within Government for the collection and statistical analysis of data. Their mandate is to collect, analyze and publish statistics on social and economic activities and interests of Newfoundland and Labrador. Using their skills and expertise, work in partnership with the Newfoundland and Labrador Statistics Agency to include gender diversity on ABC's as a data topic for their collection and analysis.

Remuneration

PAID VERSUS UNPAID

Another aspect of equity is compensation. Even if gender parity was perfectly achieved, equality would not be unless compensation rates were consistent across gender. The Treasury Board Secretariat divides ABC's into levels of remuneration (I, II, and III). Entities not determined a level are listed as 'no remuneration'. Our database lists an additional category called "other" for this analysis, which was used to indicate appointments did not fall under the rules of any of the

aforementioned levels. It is notable that the highest level of gender parity occurs in the category of unpaid organizations.

This analysis was conducted two years ago and the current metrics on gender, as well as other under-represented groups, such as visible minorities, Indigenous peoples, and persons with disabilities, are, to our knowledge, not known, or at least not publicly available. Specifically, we do not know how many women or women identifying individuals are applying or are currently represented in Tier One entity appointments, nor how gender intersects with other aspects of identity, such as ethnicity. We again reiterate the above recommendations.

In terms of maximizing the diversity of candidates for ABC appointments; maximizing regional representation from all parts of the province; and encouraging more citizens to seek appointment and to ensure that lists of qualified and recommendable candidates are continually refreshed, we highlight below some of the more salient issues with the application and appointment processes that may be working against these objectives.

Applications and Appointments

A key issue we would like to identify with the applications process is the inadequate level of advertising and promotion for appointments. As outlined in Section 12(a) of the *Independent Appointments Commission Act*, this falls under the list of duties of the Public Service Commission (PSC), who shall: “advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist.” There is a lack of awareness, knowledge and understanding about ABC appointments; thus there is, a need for a public awareness campaign to inform people of: a) the roles of the IAC and the PSC; b) the merit-based process for ABC appointments; c) the application process for interested candidates.

In addition, methods of advertising need to be expanded. We recommend increased mixed media advertising and increased frequency of advertising. Increasing visibility to inform all people living in our province of opportunities to sit on ABCs would maximize the potential for an increased diverse pool of candidates. ABC appointments that are reflective of our population is responsible inclusive governance and builds on the continued commitment to foster an inclusive and accessible province for all.

In 2017, PACSW urged government to increase its promotion of the IAC and current board appointment opportunities; update the public on metrics, recent appointments, and other relevant information. As we then noted, these actions would reaffirm confidence in the IAC structure and process.

With regards to enhancing public accountability, as per section 23 of the IAC Act, it would be our recommendation that if a person is appointed who is not on the list of recommendations of the commission, the Lieutenant Governor in Council or the minister who has made the appointment decision should report back to government.



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

Email: DavidGConway@gov.nl.ca

2023-04-28

David Conway
Independent Appointments Commission Review Consultant
Government of Newfoundland and Labrador
P.O. Box 8700
St. John's, NL A1B 4J6

Dear Mr. Conway:

RE: Review of the Independent Appointments Commission and Legislation Submission

Further to your email of April 4, 2023, please accept our submission on the review of the **Independent Appointments Commission Act**.

The Board offers the following comments in the context of recent commissioner appointments to the Public Utilities Board. Commissioners are appointed through the Independent Appointments process in a merit-based process. Section 6 of the **Public Utilities Act** sets out the conditions and terms for appointment of commissioners as follows:

6.(2) The board shall consist of 4 full-time commissioners appointed by the Lieutenant-Governor in Council.

6.(3) In making appointments under subsection (2) the Lieutenant-Governor in Council shall take into consideration the need of the board to be composed of commissioners who have expertise in law, engineering, accountancy or finance.

6.(4) The Lieutenant-Governor in Council shall designate one of the commissioners as chairperson, and another as vice-chairperson.

6.(5) The Lieutenant-Governor in Council shall set the terms and conditions of the appointment.

Recruitment and Selection Process

The Board requests that changes be considered to provide for the participation of the Board at all stages of the recruitment process for the appointment of commissioners to the Public Utilities Board.

Presently, the Independent Appointments Commission in conjunction with the Public Service Commission conducts the recruitment process for commissioners to the Board with minimal or no involvement of the Board. We recognize it is ultimately the panel of the Independent Appointments Commission that makes the final recommendation and the Lieutenant-Governor in Council that makes the appointment but engaging with the Board throughout the process would ensure that the recommendation is made based on the best information available as to the nature of the position and required competencies. The Board believes that its participation could be of assistance in:

- Developing the position description;
- Providing information to candidates;
- The interview process, including developing of interview questions;
- Screening candidates; and
- Candidate recommendation.

The purpose of any recruitment and selection process is to attract the very best candidates and successfully engage the most qualified person for the job. The Board understands that the recruitment process for positions within the civil service filled through the Public Service Commission often involves the relevant department. We would see a similar or modified approach to the selection of candidates for Agencies, Boards and Commissions. Agencies, Boards and Commissions can serve as a valuable source of information to assist in the recruitment process for a position within these entities as it would allow for the exchange of information about the position and the required skills and knowledge.

Timelines for Search

The Board requests that consideration be given to establishing timelines for appointments to the Board and recommends the recruitment and selection process be completed within three months.

During recent commissioner recruitment and selection processes the Board has been without a full complement of four commissioners. This has had a significant impact upon the work of the Board, especially considering these processes have lasted up to eight months. In addition this length of time is not favorable from the perspective of the candidates and may result in a good candidate becoming unavailable.

Duties and powers of the Independent Appointment Commission

The Board requests that consideration be given to providing authority to the Independent Appointments Commission to rank the recommended candidates for commissioners to the Board.

Section 10 of the **Independent Appointments Commission Act** states that the Independent Appointments Commission shall recommend 3 persons for an appointment. It is the Board's understanding that the process followed in other Public Service Commission recruitments often involves a ranking of the candidates. We would see a similar or modified approach to the recommendation process for the Board as the Independent Appointments Commission would have all the information necessary to rank the candidates for the consideration of the Lieutenant-Governor in Council.

Thank you for the opportunity to provide the Board's input in this review. Please advise if you require anything further from the Board.

Sincerely,



Dwanda Newman, LL.B.
Vice-Chair

May 19, 2023

Mr. David G. Conway
Statutory Review of the Independent Appointments Commission
IACreview@gov.nl.ca

Dear Mr. Conway:

**Re: Statutory Review of the Independent Appointments Commission Act
(the “IAC Act”)**

Thank you for the opportunity to present written submission on behalf of the Provident10 Board of Directors. We hope this engagement leads to further collaboration and consultation in the future between our Board and the appropriate Government bodies to ensure a smooth and seamless process for the appointment of Directors. To understand the unique position of Provident10, we feel it would be beneficial to briefly outline the uniqueness of our organization in relation to the IAC Act historically and legislatively.

By way of background, the *Public Service Pensions Act, 1991* (“**Former PSPA**”) was amended in 2014 to establish the Public Service Pension Plan Corporation. The 2014 amendment allowed for the creation of a Board of Directors. A Joint Sponsorship Agreement (“**JSA**”) was entered into between the Minister of the Department of Finance (Government) and the related public service unions party thereto (Unions) on December 10, 2014, and Appendix “B” to that Agreement set out a Trustee Corporation Framework which dealt with the establishment of, appointment to, qualification of, characteristics of, competencies, orientation and continued education related to the Board of Directors (all of which will be addressed later in this letter).

For present purposes, it is significant to note this JSA predated the creation of the IAC Act which legislation came into being in 2016. While the Former PSPA was later repealed and replaced by the *Public Services Pensions Act, 2019* (“**PSPA**”), it is noteworthy that the 2019 Act required that the Corporation and Board to be bound by and act in accordance with the JSA established under the Former PSPA.

From Provident10’s perspective, this has created some confusion as 6 of the 14 Directors appointed to the Provident10 Board are subject to the requirements of the IAC Act whereas the other 8 appointments are solely subject to the requirements of the 2019 PSPA and the JSA.

Recognizing the need to appoint Provident10 Directors effectively and properly, our Board felt it important to provide submission to assist with your review of the IAC Act. We hope we can work collaboratively to resolve some of our Board’s concerns for the fast, efficient, and proper running of our Board to ensure we obtain candidates with the competencies, characteristics, and skills necessary for the effective and efficient running of a board such as Provident10.

At a high level, and recognizing the mandate set out in the terms of reference of your review, our Board does want to ensure a merit-based appointment process that operates in a timely manner, maximizes the diversity of the candidates, maximizes a regional representation from all parts of the Province and encourages citizens to seek appointment and ensure a list of qualified and recommended candidates are continually refreshed. In that light, we have chosen to highlight the following areas for your consideration.

Given the uniqueness of Provident10 and the fact that only 6 of the 14 Directors are appointed through the IAC process, Provident10 believes the proper lens to consider all appointees to the Board should be through the initial lens of the JSA. This will ensure efficiency, consistency, address the matrix considerations and achieve a suitable mix on our Board,

While we are cognizant of the requirements of the IAC Act with respect to Government appointees, it should not be lost that the specific legislation relating to Provident10 and its Board of Directors should form the basic foundation upon which all appointees to the Board of Provident10 are viewed. We have reviewed the legislation and while it is not crystal clear, there is a strong argument that the PSPA takes precedence over the IAC Act by virtue of Section 27 of the PSPA which states:

Where the Act conflicts with another Act of the Province, this Act shall prevail.

In the result, Provident10 would recommend amending the IAC Act to specifically recognize that to the extent of inconsistency between the appointment to the Board of Directors of Provident10 the terms of the JSA shall prevail. To the extent that there is no inconsistency, the two pieces of legislation would read hand in hand (such that IAC appointments to the Board of Provident10 would have additional characteristics, qualifications and/or considerations as set out the IAC Act).

We also make this submission with a view to creating the following efficiencies:

1. To ensure all appointees at least have the basic characteristics and qualifications set out in the JSA;
2. To ensure the entire Provident10 Board would contain a proper mix of highly qualified and skilled Directors necessary to carry out the essential functions of our Board, for example:
 - (a) A consistent appointment/reappointment process to ensure there are no vacancies, that reappointments and appointments are done in a timely fashion and to ensure that the goals and objectives of the JSA and IAC Act are operating complementary;
 - (b) to ensure that conflict “situations” (whether actual or perceived) are identified at an early stage by engaging expertise of the existing Board to assist in identifying these conflicts at an early stage;

- (c) to ensure the matrix of the Provident10 Board and the pool of candidates is being achieved given the competencies required on such a board while recognizing the goals of merit, diversity and regional representation;
- (d) to ensure interested candidates to our Board have a clear and comprehensive place to look to find clearly defined information necessary with respect to the appointment process and the requirements thereof;
- (e) to ensure transparency and accountability in the appointment process given the complex nature and requirements of a Board such as a Provident 10 and the uncertainty arising due to the legislative and historical background previously alluded to.

Our Board recognizes the important work of the IAC and is laudable of its goals. Provident10 wants to be a more active participant in ensuing effective Government appointees to our Board, enhance the work of our Board and its reputation in the public. We also recognize the need to ensure all appointments have that merit and the competencies required to sit on a specialized Board such as Provident10 and to ensure we are drawing from a sufficient enough pool of candidates. Finally, we need to have a fully functioning Board at all times.

With this end goal in mind, we provide our submission with the hope we can dovetail the requirements of the JSA with the requirements of the IAC appointment process. We believe doing so will remove any confusion, streamline the process, and ensure the goals and objectives of both the IAC, PSPA and the JSA are all being achieved for the benefit of the people of the province and our members.

Yours truly,



Chuck Bruce
CEO, Provident10

May 15, 2023

Mr. David Conway
E-mail: IACreview@gov.nl.ca
Phone: 709-729-5800

Mr. Conway,

Further to our discussion of March 30, I submit the below comments to your review process of the Independent Appointments Commission (IAC) on behalf of the Board of Governors of College of the North Atlantic.

Generally speaking, we strongly endorse the outcomes of the IAC process in attracting and recommending to government highly qualified candidates to serve on the province's Agencies, Boards, and Commissions (ABCs). That said, we have significant frustration with the extensive delays we have experienced in the processing of requests for Board appointments – which we acknowledge may not be the sole responsibility of the IAC.

In the experience of our Board, there have been significant delays within government in processing and deciding on the recommendations of the IAC. I strongly encourage you to seek and report specifically on these delays as part of your review. And although I understand that the IAC has no engagement or responsibility for the selection/appointment of our Board's student and faculty representatives, I feel compelled to also express the frustrations that we have experienced in relation to these appointments. In short, the overall appointment processes for our Board, as they presently stand, are not functioning effectively. As we discussed, there ought to be an automated tracking system that will activate recruitment actions within four to six months in advance of the expiration of terms of incumbent Board members.

Other points of concern for our Board are the inability of the Board to participate in and/or observe the Executive recruitment and recommendation processes. Excluding Board participation in the selection of CEOs is most inappropriate. Boards have only one employee, the organization's CEO, yet the Board has no input or influence in their recruitment and selection. Another inconsistency in the selection of Board Chairs relates to the maximum 6-year term of appointment of Board members. I understand that this restriction applies to Board members who may wish to seek appointment as Chair of the Board. The effect, most likely unintended, is that experienced Board members serving in their second three-year term would be ineligible for appointment to the Chair's position. Having Chairs with strong Board experience and corporate memory within the respective ABCs, while not essential, is clearly desirable.

In closing, I thank you for our healthy discussion on these matters and appreciate that you have a tight timeline for your work. I trust that the experience of our Board will be reflected in your report.

Sincerely,

A handwritten signature in black ink, appearing to read "Alastair O'Rielly".

Alastair O'Rielly
Chairperson, CNA Board of Governors

c. CNA Board of Governors

May 17, 2023

David Conway, Consultant
Independent Appointments Commission Act review
Government of Newfoundland and Labrador

Mr. Conway:

Thank you for the invitation to participate in the review of the *Independent Appointments Commission Act*. As the Chairperson of the Newfoundland and Labrador Geographical Names Board (NLGNB), I have consulted with members of the board and relevant officials with the Department of Fisheries, Forestry and Agriculture in the preparation of this submission.

Over the past number of years the board has experienced extended periods of unfilled vacancies, which is a concern. The term of the previous board, of which I was a member, expired in December 2018. In October 2019, members of the previous board were invited to apply for re-appointment through the Public Service Commission online application process. Several of us did so.

Three members were appointed to the board by the Minister in April 2021, two members from the previous board and one new member. Although COVID no doubt affected the appointment process, there was a period of over a year prior to COVID during which all positions were vacant.

Under the *Geographical Names Board Act* [sec. 3 (2)], the NLGNB is “composed of a secretary and 5 other members appointed by the minister.” Only three members were appointed in April 2021, and the remaining two positions remain vacant. This is problematic for the board because the *Geographical Names Board Act* specifies that three persons are required for a quorum [sec. 4 (2)]. Should any member not be able to meet for an extended period, the board would not be able to carry out its duties. Also, NLGNB members may be placed in a difficult position if a critical work commitment arises after the date of a board meeting has been set. They have to make a decision as to whether to prioritize the work commitment or the board meeting, knowing that if they do not attend the board meeting it will have to be cancelled as quorum would not be met. The board has made inquiries of Department officials as to when the positions might be filled, but no further information has been forthcoming.

Article 10. (1) (b) of the *Independent Appointments Commission Act* may contribute to this problem. This article reads:

10. (1) The commission shall...
 - (b) recommend 3 persons for those appointments.

Why does the Act only require 3 recommendations of candidates rather than the full complement of members? How are the remaining vacancies to be filled?

I note that the NLGNB is not listed under the “Opportunities” tab of the Independent Appointments Commission web site, despite there being two vacancies on the board.

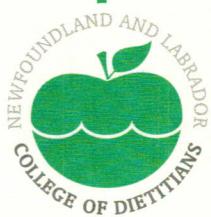
The NLGNB is committed to its work, and wishes to respond to public requests for naming geographical features in a timely manner. Improvements to the process for filling appointments would support the board’s effectiveness.

On a positive note, I wish to commend the Public Service Commission and the Independent Appointments Commission on the excellent on-line application system. The criteria listed for consideration in candidate appointment to the NLGNB demonstrates that there was meaningful consultation with the board and the Department prior to establishing the criteria.

Again, on behalf of the board, I wish to thank you for the opportunity to participate in this review. I wish you every success in identifying areas for improvement to the *Independent Appointments Commission Act* and associated processes which would enable higher quality service to the public.

Sincerely,

Cheryl Brown-McLean
Chairperson, Newfoundland and Labrador Geographical Names Board



May 16, 2023

Dear Mr. Conway,

I am writing this letter in response to the request for participation in the statutory review of the Independent Appointment Commission Act, 2016. The Newfoundland & Labrador College of Dietitians (NLCD) has only had two government-appointed public members to the NLCD Board under the new IAC process. The Disciplinary panel has never had any publicly appointed members using the IAC process or previous process. Prior to the Act being proclaimed, NLCD was without public appointment members for about six months. As indicated in the [Dietitians Act](#), 2005 sections 6(1-6) and 7 (1), there was a period when NLCD legislative commitments were delayed due to not having a public member and we could not meet quorum. While waiting for the appointments to the Board there were many calls and emails from myself to the contact person. I was continuously following up to find out where they were in the process and how long NLCD could expect before we had new public members appointed. One of the issues [that may have resulted in the delay](#) and lack of information about where they were in the appointment process was [there was constant turnover in the contact person](#). I found I was constantly repeating the same information to a new staff person to move the process forward. Consistency and better communication for those [who are employed in this area](#) would better serve the regulatory colleges as questions could be answered in a timely manner.

On the IAC website, the current public member's appointments have expired, and the reappointment to the NLCD board with the new revised date has not been completed. The [public-appointed members](#) should be notified of the reappointment with the new date of expiry, and NLCD should be notified as well. Up-to-date, current information is important for all stakeholders.

Currently, NLCD does not have any public appointments for the disciplinary panel. In the past twelve years, [there has never been an appointment](#). NLCD has never had to take any allegations to this level by using the disciplinary panel, therefore the lack of appointments [has not affected the process we are to follow](#) under the disciplinary process outlined in the Dietitians Act and Regulations. However, if we ever needed appointments to the [disciplinary panel to meet the legislative requirement](#) how long would it take?



My health regulator colleagues who need disciplinary panel appointments immediately are currently without their publicly appointed members. Without the appointment of members, this would cause a significant delay in the disciplinary process that was established to protect the public.

Another concern is the lack of information and timelines on the internal process once an applicant completes the application to when they may possibly be appointed. I think transparency in this process is required so that regulators and those that volunteer are aware of the timelines for work and life planning purposes.

I would like to thank you for the time to share feedback on the IAC Act process. If you have any questions, please feel free to contact me.

Regards,

Cynthia Whalen

Cynthia Whalen, B.Sc., M.Sc., R.D.
Registrar & Executive Coordinator

Submission to the Statutory Review of the Independent Appointments Commission Act

The Newfoundland and Labrador College of Social Workers (NLCSW) is the regulatory body for the profession in the province. The College is established by legislation and is a Tier 2 board as defined by the Independent Appointments Commission and identified under Schedule C of the *Independent Appointments Commission Act*. The *Social Workers Act* provides for eight appointments by the Minister of Health & Community Services. Four appointments to the Board of directors (s.12(1)) and four appointments to the Disciplinary Panel (s.24(4)(c)).

NLCSW appreciates this opportunity to comment on the review of the *Independent Appointments Commission Act*. This brief will address the role of public representatives on the board of directors and disciplinary panel and will identify two key issues: communication about the process and timeliness.

Board of Directors

The NLCSW board of directors is responsible for governance of the organization and other functions as outlined by the legislation. Members of the board also serve as members of a complaints authorization committee (CAC). A CAC is empowered under section 27 of the *Social Workers Act* to make decisions about the disposition of complaints, and generally, a separate CAC hears each complaint. When establishment of a CAC is required, the Board appoints at least three of its members, at least one of whom is an appointed public board member. This committee reviews allegations against social work practice to determine if there are reasonable grounds to believe that an individual has engaged in conduct deserving of sanction. This is a vital part of the College's accountability for the practice of social work in the province.

Public representatives to the board of directors have three-year terms and may hold office for a period of 9 consecutive years. When the term of an appointed member expires, the individual continues to be a member until reappointed or replaced.

Public representatives are required to achieve quorum and to convene a meeting of the board of directors and the complaints authorization committee. The board of directors or a CAC cannot move forward with a decision unless a public representative is present.

When vacancies on the board of directors occur because public representatives are not appointed, the result can be delays in the review of allegations against practice, delays in the completion of CAC decisions and a higher workload for the individuals who are appointed to fulfill this vital role. CAC meetings are in addition to regular meetings of the NLCSW board of directors.

Disciplinary Panel

The NLCSW Disciplinary Panel appoints adjudication tribunals from within its membership to hear matters which are referred from the Complaints Authorization Committee. The Disciplinary Panel must include at least four individuals who are not registered under the *Social Workers Act* to represent the public interest. Each adjudication tribunal must be comprised of two registered social workers and one public representative. Upon hearing evidence, the tribunal decides whether or not a respondent is guilty of conduct deserving of sanction and can order sanctions.

Delays in the appointment process can result in delays for hearings when there are fewer public representatives to share the responsibility. The unpredictability of the appointment process is difficult for succession planning and training. Again, this is an integral part of the College's accountability for social work practice in Newfoundland and Labrador and of its role in protection of the public interest.

Issues

As illustrated, the appointment of public representatives is essential to the functioning of the College. NLCSW has identified two primary issues.

- 1) Communication about the process: The appointment process itself is unclear. At any given time, boards are not aware of the status of vacancies and reappointments. There is a need to clarify and differentiate between the roles of the Independent Appointments Commission, the Public Service Commission (*Section 10 & 11 Independents Appointments Commission Act*) and the Department of Health and Community Services. Although the Public Service Commission is responsible for providing recommendations for appointments to Tier 2 boards, individuals are referred to the IAC for the application process. The point of contact for our organization is the Department of Health and Community Services. The communication process between the IAC, the PSC and the department is unclear. Further, although the NLCSW board has vacancies, they are not listed on the IAC website. Despite our best efforts, we have been unable to determine the status of these vacancies and at what stage of the appointment process they may be.

The criteria for these appointments are also generic with no process for the IAC, the PSC, or the Department to work with boards such as NLCSW to identify the competencies required for appointee board members. This is important given that the purpose is to require a merit-based process for appointments.

- 2) Timeliness: It takes years for a vacancy to be filled. Currently, NLCSW has a vacancy on the board of directors since 2018. There are two vacancies on the disciplinary panel since 2019 and 2022. These vacancies continue despite the knowledge that individuals have applied for appointment.

The process for reappointment also has substantial delays. Public representative appointees serve under the continuance clauses for periods of time which exceed the maximum period to hold office as outlined in the legislation. NLCSW has been advised that since the organization is able to carry out its mandate despite vacancies, appointments to the board and disciplinary panel are not a priority at this time. This means uncertainty as well as additional pressure on the existing public representatives by increasing their workloads. NLCSW is currently relying on the commitment and goodwill of these volunteers to fulfil a mandate which is dictated by provincial government legislation, with three individuals covering the four public representative seats on the board and two individuals covering the four public representative seats on the disciplinary panel.

The NLCSW has been fortunate to have knowledgeable, skilled, and dedicated public representatives who have carried additional responsibilities to ensure that NLCSW effectively and efficiently meets its mandate. It is a credit to them as individuals versus the appointment process. We would encourage direct reach out to public appointees and those who have applied to hear about their experience with the process directly.

Thank you for the opportunity to participate in the review. Please contact our organization if you have any questions about the enclosed information.



Newfoundland & Labrador Pharmacy Board

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e-mail inforx@nlpb.ca

May 31, 2023

David Conway
IAC Act Review Consultant

VIA E-MAIL

Dear Mr. Conway:

RE: Feedback for *Independent Appointment Commission Act* Review

Please accept this letter as the Newfoundland and Labrador Pharmacy Board's (NLPB) written feedback for the ongoing review of the *Independent Appointment Commission Act* (IACA). This written feedback is intended to accompany the feedback we provided in our meeting with you on May 5, 2023.

Since the implementation of the IACA, NLPB has experienced significant challenges with both understanding the public appointment process and with obtaining the necessary public appointments. Upon a detailed review of the IACA itself, NLPB's overarching feedback is that the IACA and the processes implemented to administer it are unnecessarily complex and create confusion to an extent that the functioning of the process appears to be significantly hindered. This is evidenced, from NLPB's perspective, by the fact that NLPB has received only one appointment¹ in the seven years since the IACA was implemented despite countless efforts to communicate the need for further appointments to the Independent Appointment Commission (IAC), the Public Service Commission (PSC), and the Department of Health and Community Services.

Perhaps at the foundation of the complexity, the IACA cannot be read independently of the Public Service Commission Act (PSCA), particularly with respect to NLPB and other professional regulatory bodies that fall under "Tier 2" status. With respect to these Tier 2 entities, it appears that the provisions of the IACA do not directly apply to the public appointment process at all. The IACA defines "appointment" as the appointment of a person under the authority of a statute or entity listed in the Schedule to the IACA, i.e., the "Tier 1" entities, however, it does not include NLPB or any of the other Tier 2 entities. The IACA then sets out a framework for the public appointment process for Tier 1 entities, which at times incorporates the PSC.

It appears that the only link between the IACA and NLPB and the other Tier 2 entities is that the IACA includes provisions to amend ss. 20-27 of the PSCA. These amendments set out that the PSCA governs the appointment of a person under the authority of a statute or entity listed in Schedule C to the PSCA, i.e., the Tier 2 entities, which include NLPB and other professional regulatory bodies. The PSCA then sets out a framework for the public appointment process for Tier 2 entities that is virtually the same as the process set out in the IACA, with the exception that it does not incorporate the IAC into the PSCA process in any way.

This legislative framework creates challenges in understanding in which circumstances the IACA applies versus the PSCA, or in which cases both the IACA and the PSCA are applicable to a particular appointment. Further, despite the apparent distinction between the IACA-governed and PSCA-governed processes, applications for public appointments governed by the PSCA are made through the IAC and its website and, in practice, appear to be

¹ Unfortunately, the individual appointed resigned within a few months, which further calls into question the effectiveness of the appointment process.

managed by IAC staff at the initial level. It has never been clearly communicated to NLPB which organization is responsible for which stages in the process, and there appear to be elements of the IACA that are being applied to Tier 2 entities, whether they should be or not. For example, NLPB has recently been told that there needs to be more than one application for a position before it can be sent to the minister for consideration. While this is a requirement in the IACA for organizations governed by that Act, there is no similar provision in the PSCA, which governs NLPB's public appointment process.

It is unclear why there are two parallel processes set up by the legislation, and it is also unclear what criteria are used to categorize entities as either Tier 1 or Tier 2. This lack of clarity, and the apparent cross-over of the processes appears to be hampering the functioning of the public appointment process. NLPB recommends that these two seemingly parallel but overlapping processes are either separated completely or merged into one, and that the process be clearly communicated to the entities that are subject to the process.

Perhaps the biggest concern with the IAC and PSC processes is the lack of transparency. The IACA and PSCA both set out that appointments are to be made "further to a merit-based process." However, we are not aware of any publicly-available documents setting out what the "merit-based process" is. There is no clear mechanism for organizations that require public appointments to communicate their needs, and organizations are generally not consulted with respect to the appointments made. There is no mechanism by which organizations can track the status of the appointment process with respect to their organization, nor is there a clear avenue by which organizations can notify when appointments have expired, and this does not appear to be tracked by the PSC or the relevant department.

It is abundantly clear that the IAC/PSC process has not worked for NLPB. NLPB is hopeful that through this review, the IACA and the associated public appointment processes will be streamlined so that they can operate efficiently and be more transparent so that organizations waiting on appointments to complete their work are not left in the dark.

Thank you for your invitation for submissions.

Yours Truly,



Noelle Patten
Registrar & CEO
Newfoundland and Labrador Pharmacy Board

WRITTEN SUBMISSIONS OF FIRST LIGHT

1) From First Voice Urban Indigenous Coalition, a report titled "*Building Trust, Restoring Confidence: MMIWG Recommendations for Strengthening Police Oversight in Newfoundland and Labrador*":

3.6. The RNC PCC's panel of adjudicators must be chosen by the Independent Appointments Commission, with a statutory obligation to ensure that the panel reflects the province's diversity. This includes:

- (a) Gender identity and expression;
- (b) Sexual orientation;
- (c) Religious and racial identity;
- (d) Indigenous identity, including guaranteed representation by at least one member of an Inuit community and at least one member of a First Nations community;
- (e) Language communities, including English, French, and at least one Indigenous language;
- (f) Citizenship and residency status; and
- (g) Geography, including guaranteed representation for each of (i) Labrador, (ii) the West Coast of Newfoundland, (iii) Central Newfoundland, (iv) rural Newfoundland, and (v) the St. John's metro region.

2) From The Independent Appointments Commission Act:

21. (1) The commission shall provide recommendations respecting appointments in accordance with a merit-based process. Merit-Based process is not defined: confusion and lack of transparency results from poorly or non-defined criteria.

(2) Subsection (1) does not apply to

(a) a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with sections 21 to 27; or -The renewal or extension procedure is exempt from merit-based process: this creates confusion and lack of transparency around the criteria for such appointments, undermining public trust in process.

(b) an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances. "urgent and extenuating circumstances" are not defined: confusion and lack of transparency resulting from poorly defined criteria and process. Need to define such circumstances,

(3) Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17. -Any and all changes to current

appointments must be brought before the House of Assembly and the change must be explained and justified to the House of Assembly to increase transparency and public knowledge around processes.

Recommendations to be considered

22. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

Effect of requirement to consider recommendation

23. Notwithstanding section 22, the requirement to consider a recommendation under that section shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority - This policy is restrictive, oppressive, and undermines merit-based process; the lack of definition surrounding the process also complicates this line as it is not clear why a recommendation would not be accepted. If a recommendation is not accepted, the Lieutenant-Governor in Council must present their case to the House of Assembly explaining and justifying why that decision was made. This would increase transparency in the process and allow public knowledge of the process to be accessible.

General Recommendations:

That; If appointing someone outside of the IAC recommendations, this must be reported by the Minister responsible to the House of Assembly as to why that occurred.

That; the entire process be streamlined and clarified as it is not always clear as to how the process works.

That; Those recommendations from First Voice's Report titled "Building Trust, Restoring Confidence: MMIWG Recommendations for Strengthening Police Oversight in Newfoundland and Labrador " related to the IAC, be reviewed by your office and be considered the official stance First Light takes on such issues.



May 5, 2023

VIA EMAIL

Mr. David Conway
IACreview@gov.nl.ca

Dear Mr. Conway:

Subject: *Independent Appointments Commission Act Submission*

I am writing to comment on the review of the *Independent Appointments Commission Act* (IAC Act). I appreciate the opportunity to share our views, which are limited to one topic – the potential use of the process in the Act to support the appointment of the Information and Privacy Commissioner. It is our view, which I explain below, that the Independent Appointments Commission (IAC) should not be used to appoint the Information and Privacy Commissioner, because while it may be a sound means to appoint people to agencies, boards and commissions of the executive branch of government, it leaves significant discretion over the final decision in the hands of Cabinet, the seat of executive power of the government. The Information and Privacy Commissioner is a statutory officer of the legislative branch of government, charged with oversight of the executive branch. To place the penultimate decision over the appointment of such an office with Cabinet would undermine the independence of the Commissioner and Office. While the IAC is not currently used to appoint the Commissioner, the potential for it to be used in this manner was raised by the Department of Justice and Public Safety as part of the 2020 Statutory Review of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA, 2015). It may well re-emerge in the review being undertaken of statutory offices by former Justice Robert Fowler as the appointment procedures for statutory officers is within the terms of reference of that review.

The current process for appointing the Commissioner is provided for by section 85 of ATIPPA, 2015. It provides for a selection committee to be formed by the Speaker comprising the Clerk of the Executive Council, the Clerk of the House of Assembly, the Chief Judge of the Provincial Court, and the President of the University, with provisions made for specific designates for each of these positions. This committee is required to develop a “roster of qualified candidates and in doing so may publicly invite expressions of interest”. In the most recent case, the committee formed by the Speaker was assisted by the Public Service Commission in this process. The roster is then submitted to the Speaker, who is required to

consult the Premier, the Leader of the Official Opposition and the leader or member of a registered party represented on the House of Assembly Management Commission and, thereafter, cause a resolution to be brought to the House to appoint one of the individuals named on the roster.

This process was designed by the 2014 Statutory Review Committee of *ATIPPA* which examined the pre-2015 appointments process, which was simply that the House of Assembly vote on a resolution brought forward by the Lieutenant Governor-in-Council. In their report, they said:

Effectively the decision to approve the appointment is that of the House of Assembly, and in actually making the appointment, the Lieutenant-Governor in Council is the agent implementing the decision of the House of Assembly.

Of course, “Lieutenant-Governor in Council” is simply the constitutional name for the Cabinet or the government in power at the time. That government is made up of members of the political party having the majority of members of the House of Assembly. As a result, the political party in power has control of both bodies. However, the requirement for decision by a majority vote in the House of Assembly precludes secret determination by the government. Requiring approval by resolution of the House of Assembly ensures opportunity for open public debate on the merits or otherwise of the proposed appointee. The Committee is satisfied that this is an appropriate process for initial appointment and should be retained. However, the Committee is of the view that the perception of a Commissioner who is independent from government would be greatly enhanced if the choice resulted from efforts by a selection committee that would identify leading candidates for consideration. Such a committee could consist of persons holding offices such as the Clerk of the Executive Council, Clerk of the House of Assembly, Chief Judge of the Provincial Court, and President of Memorial University.

The process was designed prior to the development and introduction of the *Independent Appointments Commission Act* and in a certain sense, there are three parallels. As with the IAC process, the *ATIPPA*, 2015 process provides for a panel of people with identified expertise, that this panel will develop a roster of qualified candidates, and that an element of choice will be left to the final decision maker. And it is with these parallels that the critical differences can be found, and we would argue, should be preserved.

Section 3 of the *IAC Act* establishes that the purpose of the Act is to require a merit-based process for appointments and to establish an independent commission to provide recommendations for those appointments. Sections 4 and 5 further clarify that the Lieutenant-Governor in Council (LGIC, i.e. Cabinet) or a minister shall consider these recommendations in “making an appointment” but that this requirement does not fetter the discretion of LGIC or a minister in making an appointment per their authority under an Act or other authority. The key elements here are that the purpose of the Act is to assist LGIC in making appointments, and that it is critical that the discretion of LGIC not be fettered but must remain latitude for decision making. This is appropriate and critical for the functioning of the IAC in a manner that does not invalidate the authorities of LGIC and ministers as they may have otherwise been provided for. The appointment of individuals to agencies, boards and commissions which implement government’s policy on its behalf is a key function of the

executive branch of the government. The IAC was established to support, but not fetter, this crucial executive function. Therefore, the process that has been implemented since the IAC Act came into force has been that, for each position subject to an appointment, the IAC provides a roster of up to three names to the minister responsible for the appointment. The Minister will then bring this roster into Cabinet, which will choose from among them. Discretion is always maintained: the identity of the candidates is subject to cabinet confidences and Cabinet has the latitude to freely choose among them, or not appoint any of them.

The *ATIPPA, 2015* process has parallels but is different in important and intentional ways. Similarly this panel of people appointed with specific expertise and experience develop a roster of individuals and hand this roster over to the ultimate decision-maker – in this instance the House of Assembly via the Speaker. The decision-maker here is notably different than above. While agencies, boards and commissions are bodies that implement the policies of the executive branch, a statutory officer such as the Information and Privacy Commissioner is an officer of the legislature. The Commissioner is mandated by *ATIPPA, 2015* to provide oversight of executive branch public bodies and the *Personal Health Information Act* to provide oversight of custodians (i.e. those organizations and people who provide health services as part of our predominantly public health care system). Just as it is critical that Cabinet maintain discretion over appointments within the executive branch, so too is it critical that the House maintain discretion over appointments within the legislative branch. This means, as the 2014 Statutory Review Committee pointed out, that the legislature must be able to publicly deliberate on the candidates. The legislature is a public body, and so an open debate that identified multiple specific individuals, at least one of whom will not be appointed, seems unduly invasive and may deter candidates from participating. But revealing the roster to the leaders of the parties in the House, and consulting them on it before introducing a motion, establishes a balance between protecting privacy and unduly fettering discretion. Admittedly, this can create challenges when the leaders of the parties do not agree on a preferred candidate, but resolving such differences is precisely what legislatures are intended to do.

During the 2020 Statutory Review of *ATIPPA, 2015* the Department of Justice and Public Safety recommended that *ATIPPA, 2015* be amended such that the Commissioner be appointed using the IAC process. As the above comparison is intended to demonstrate, this would be inappropriate. The IAC process was clearly designed to support, short of eliminating Cabinet's discretion, the appointments process within the executive branch. The *ATIPPA, 2015* process was clearly designed to support, short of eliminating the legislature's discretion, the appointments' process by the legislative branch.

The rationale that was offered by the Department at that juncture was appointing the Information and Privacy Commissioner through the IAC process would have the benefit of standardizing the appointment process of all of the statutory officers of the House of Assembly. It is beyond my mandate to comment on the appointments process of those officers; however, I do not understand what the inherent benefit of standardization would be. As far as I am aware, however, the appointments process for the Information and Privacy Commissioner is the only one of these processes that has been subject to focused analysis in the way that the 2015 Statutory Review Committee provided. Prior to *ATIPPA, 2015* the Commissioner had been appointed on an LGIC resolution brought before the House, just as the other statutory officers. The challenge with this approach is that the House, in being

presented with just one candidate, would not be aware of the comparative merits of other candidates. It would not be aware if, for example, there was a candidate with more credentials or with more experience. The executive branch of government might be seen to face conflict here – the appointee would be provided with authorities to regulate it for six years. It arguably creates an incentive to hire a person who, while meeting the qualifications, was not quite so experienced or qualified and therefore might be less formidable in their oversight. Any MHAs who are not part of Cabinet would be none the wiser and have no way of knowing if a more qualified candidate was intentionally overlooked. Their discretion is therefore fettered. In recommending the appointment procedure that it did, in 2015, the Committee intentionally and substantially improved the independence of the Office. If there is a desire for standardization of the process, an option might be to consider standardizing the appointments of the other statutory officers to align with the procedure in ATIPPA, 2015.

The Chair of the 2020 Statutory Review Committee of ATIPPA, 2015 considered and recommended against the proposal of the Department of Justice and Public Safety. His full analysis is available at pages 271-275 of his report, available at nlatippareview.ca, but I will quote him in part here:

The appointment of all other statutory office holders – including the Auditor General – is made simply by the Lieutenant-Governor-in-Council “on resolution of the House of Assembly”. However, these appointments are made under the procedures established in the *Independent Appointments Commission Act*, SNL 2016, c. I-2.1. That Act provides for an independent committee to conduct a merit-based screening process and to recommend to the Lieutenant-Governor-in-Council three (where possible) persons for the appointment. The Lieutenant-Governor-in-Council is required to consider the recommendations but is not limited to those recommendations in bringing forward a name to the House of Assembly. As such the process following receipt of the committee’s recommendations is very much controlled by the executive branch of government.

Government suggested to this Committee that the appointment of the Information and Privacy Commissioner could be subject to the same process. I am not prepared to recommend that. The Wells Committee carefully considered the matter and, recognizing the unique and varied role of the commissioner, constructed an appointment process for the commissioner with significant involvement of the legislative branch. Further, the *Independent Appointments Commission Act* was enacted in 2016, subsequent to ATIPPA, 2015. The schedule to the *Independent Appointments Commission Act* includes the other statutory offices; the Information and Privacy Commissioner was not, indicating a clear legislative intention to leave the current appointment process in place. Two appointments have been made since 2015. There is no reason to establish a new process and, in my view, good reason to maintain the primary involvement of the legislative branch.

All that being said, while the composition of the selection committee in section 85(3) of ATIPPA, 2015 is entirely valid, if there were some inherent value in making the process more consistent for statutory officers of the house, one option might be to proceed with statutory amendments that would see the members of the IAC form the selection committee, have

them develop the roster referenced in 85(4) and (5), and forward that roster to the Speaker instead of the LGIC, retaining the same process as outlined in 85(6). The issue that I raise has less to do with the composition of the ATIPPA, 2015 selection committee vs the IAC as it does with how the roster developed by such a committee is used to inform a resolution brought before the House.

In sum, the OIPC's position is that while the Independent Appointments Commission Act was designed to support, but not fetter, the appointment making power of the executive branch of government, it is not, as it currently exists, designed to support the appointment making power of the legislative branch of government. Using it to support this process – and the appointment of the Information and Privacy Commissioner is the position in particular about which I have the mandate to comment – inappropriately fetters the discretion of the House and tilts power towards the executive branch and away from the legislative branch and undermines the independence of the position.

Thank you for consideration of these views.

Yours truly,

A handwritten signature in blue ink, appearing to read "Michael Harvey".

Michael Harvey
Information and Privacy Commissioner

From: Thomas Kendell
Sent: May 11, 2023 1:02 PM
To: IAC Review
Subject: Review of the IAC

Good Afternoon

Here are some points to consider in your review of the Independent Appointments Commission...

- Most people do not know what the IAC is and who serves on the Commission and their qualifications to choose candidates
- Some people think that it is just an arm of the government in power and has no independence ○ What is the connection between the IAC and the PSC?
- People who apply do not seem to get a response when they are rejected for some unknown reason.
- IAC does not seem to be transparent and accountable to the public....Who then are they accountable to?
- Applications seem to go in a black hole!
- The website is not updated...My name is listed for a board and as far as I know it is defunct and we have not met for 3-4 years!
- The website mentions opportunities but there are few opportunities and few vacancies exist.
- People who serve on government boards should be listed along with their bios.
- There are few Tier 1 to apply for and those are remunerated.
- What is the process for choosing candidates?
- When determining the selection of candidates is the resume the only thing that IAC looks at? Are there further interviews or phone or zoom calls to speak to the candidates before the final selection?
- Can candidates submit written resumes or only just complete the online application?
- People have little faith and respect for the IAC when it raises more questions than answers.

Personally I have applied to boards where I have been extremely qualified and either received no response or my application has been rejected in preference of someone much less qualified than me. It cannot be merit based if less experienced and qualified candidates are selected. I applied to serve on the APSEA board where I had a connection for 20 plus years and my application was never acknowledged. I have no idea who is on that board.

The Health board is supposed to choose 5 more regional members but there has been no word since the appointment of the provincial board.

I am sure that there are many more comments and questions to ask and this review must acknowledge the concerns of the general public and people like myself who have lost faith and respect in the government appointed body over the past number of years.

Thank you

Thomas Kendell
GFW

SUBMISSION TO IAC REVIEW CONSULTANT

This is a submission to the IAC review consultant, who has a mandate to undertake a comprehensive review of the IAC Act. My focus will be broad and comprehensive in keeping with this mandate. The creation of the Commission is an important step forward and is designed to deal with the implementation of the merit principle in the recruitment and selection of appointed officials. The officials included in its mandate include executive appointments as well as appointments of directors to serve on governance boards. Some of the officials are paid while others are not. The conditions of appointment tend to differ from one organization to another, with differences in compensation, responsibility, and accountability.

Some time ago the Public Service Commission was established to improve the transparency in the recruitment and selection of appointed public officials, to remove partisan considerations and to build a higher level of professionalism in public service. The key role of the PSC was to implement the merit principle and objectively and scientifically to measure the capacity of candidates to perform the duties required of them. Over time the PSC lost much of its authority, and it began a process of devolving power to departments and agencies, and this allowed political partisanship to creep in. While the PSC does provide professional support to the IAC it no longer has the authority to perform the strong independent role which was envisaged by the reformers who were seeking to build a stronger and more professional public service.

I use the broad definition of public servant as appointed, rather than elected, officials of GNL, serving as doctors, professors, lawyers, teachers, nurses, electricians, clerks, and deputy ministers. They serve the public whether they work in a government department, a regulatory board, a university, or a hospital. They represent a set of skills, human resources, that serve the public. GNL has a duty to them to treat them equitably and consistently and to empower them to perform their assigned duties, with a clear delineation of these duties, along with their responsibility and their accountability to the public. GNL has a duty to ensure that they operate under a code of conduct which defines what is expected of them and how they should conduct themselves, within a defined ethical framework. This ethical code should clearly articulate what behaviour is exemplary, which behaviour is acceptable and what is clearly unacceptable, beyond the pale, even if not illegal.

The public service plays a vital role in advising the legislative and executive branch of government. The Muskrat Falls Inquiry exhibited a failure on the part of senior public servants to document and communicate information and to create proper mechanisms for independent oversight. The future of the province depends upon a professional, innovative and ethical public service. We need to recruit the brightest and the best to advise the executive and legislative branch of government on public policy choices and to implement policy efficiently, effectively and ethically.

A broad and independent review of the public service, its efficiency, its effectiveness and its ethical values should be commissioned similar to the review conducted by Chief Justice Derek Green's 2007 review of the House of Assembly entitled "Rebuilding Confidence: Report of the Review Commission on Constituency Allowances and Related Matters." What is now needed is a broad

review of the role of the public service, broadly defined to include all departments, agencies and commissions.

In my recommendations below I deal with both short-term and longer-term changes. The short-term changes relate directly to the operation of the IAC. My longer-term recommendations propose a broadening of the mandate of the Public Service Commission and the inclusion of the IAC into a revitalized PSC.

1. The PERT report recommended consistency in management among “agencies, boards and commissions” (The Big Reset, p 220). I endorse this recommendation along with the other following PERT recommendations:

- All public institutions have public accountability frameworks that are readily accessible to the public on the institution’s website, in addition to being tabled in and defended in the House of Assembly.
- The number of agencies, boards and commissions be reduced and, where appropriate, mandates of these boards be incorporated into government departments.
- Partnerships be explored with other provinces in fulfilling regulatory roles in some cases, rather than establishing separate entities.
- Wage levels be standardized across all government entities where appropriate.
- Bonuses and dividends be immediately eliminated for all publicly funded organizations, including provincial government agencies, boards and commissions, as well as any public or private organizations receiving government money.

2. Implicit in these PERT recommendations is the principle of an approach to human resource planning, recruitment, succession planning, measurement and management which applies consistently to all GNL departments, agencies, boards and commissions. I endorse this principle. I also endorse the notion that in a small province there should be one lead Commission for recruitment of personnel. The Commission should be structured to assess qualifications without being tainted by nepotism, partisan politics and cronyism.

3. The Rules of Procedure for the IAC contain section 9, which is headed: “Preservation of public confidence in the IAC”. This section is reproduced below:

Preservation of public confidence in the IAC

9.1

Where sixty days have expired after the report of the IAC has been forwarded to the Appointing Authority and there has been no announcement of the appointment of a person to fill the vacancy for which a recommendation was made, the Administrator will, unless for good reason the Chairperson directs otherwise, prepare a news release indicating only that the recommendations required to be made by the IAC for the described positions have been made and the date on which they were forwarded to the Appointing Authority.

9.2

Where any commissioner or the Administrator is made aware by the PSC, or otherwise becomes aware, that a position for which the IAC made recommendations has been filled by appointment of a person who was not one of the names recommended by the IAC for appointment to that position, and the Appointing Authority has not, within ten days of making the appointment, made that fact public, the Administrator will, unless for good reason the Chairperson otherwise directs, prepare a news release indicating only that a person other than one of the persons recommended by the IAC was appointed to the position, and the same shall be released on the authority of the Chairperson.

I recommend that your report include a list of the positions unfilled after sixty days, as well as a list of any and all appointments made which were not taken from the names recommended by the IAC for appointment to that position, along with a list of those appointments for which a news release was made pursuant to s 9.2 of the Rules of Procedure.

4. Candidates recommended by the IAC should be ranked in order of merit. Candidates should not be simply listed in alphabetical order. The Commission should be allowed to identify outstanding or stellar candidates, rather than placing all qualified candidates on the same level. Alphabetical listing is not consistent with the merit principle. Along with the ranking the Commission should provide an assessment of each of the recommended candidates along with a description of the assessment tools used in reaching its recommendations including the criteria used in determining merit.

5. The governing legislation should be amended to provide that where the government does not make appointments recommended by the Commission that they should file the reasons for same and defend the decision before a standing committee of the House of Assembly.

6. The Commission should be given a mandate, through amendments to governing legislation, to review all job descriptions before undertaking recruitment activity, to ensure that the candidates recruited and selected have the expertise and experience effectively to discharge the assigned responsibilities. Such an independent review should reduce “gaming” the system to pre-determine the appointment process by writing the job specifications around an anointed candidate.

7. The Commission should also be empowered to review any and all employment contracts for appointments to ensure that the responsibilities and accountabilities are clearly established, along with a code of ethical conduct setting out performance standards and standards of acceptable versus unacceptable behaviour, with the aim of making it clear that public servants can be terminated for cause, but only when objectively measured and not based on partisan caprice.

8. The Independent Appointments Commission should over time become part of the Public Service Commission (PSC) whose mandate should be expanded to encompass recruitment and selection for all public servants with defined criteria to be applied in assessing merit and with the ranking of candidates. This will help ensure consistency among government departments,

agencies, boards and commissions, where positions that are classified to be equivalent across all government entities are treated the same. This is in keeping with the recommendations of the PERT. The PSC Act should be rewritten to give it wider scope while also expanding its transparency.

9. The credentials of the Public Service Commission should be impeccable and should include full and part-time appointments, all based on the merit principle. The IAC is a volunteer board which has been given weighty responsibilities. The initiative to create the IAC was a good one but it should be viewed as a steppingstone toward creation of a truly effective PSC with a broad mandate and with the expertise to service the human resources needs of government, all of government, including agencies, boards, colleges, hospitals, commissions and departments.

10. The IAC draws upon the skills resident in the PSC. This is a practice which makes good use of existing resources. The IAC should also seek involvement from external resources particularly for specialized positions. While the IAC must preserve its independence it should engage with the people to whom the recruits must work to ensure that the candidates recommended are a good fit for the job and for the work environment.

11. GNL should have one integrated human resource planning agency serving all departments and agencies. GNL should have one agency responsible for human resources and for the recruitment and selection of candidates. That same agency should be the repository of a human resource database.

12. In my opinion that agency should be the Public Service Commission (PSC). A new Public Service Commission Act should be prepared drawing on the advice of an independent judicial review of the role of the public service, following the model of the 2007 Green Report entitled “Rebuilding Confidence”.

The new Public Service Commission Act should provide protection for public servants against retribution for speaking truth to power and should provide advisory services to public servants who find themselves compromised in their ability to discharge their duties fairly and effectively. The mandate should include the following:

- To recruit potential public servants and people to serve on governance and regulatory boards.
- To provide guidance to the public service on how they should discharge their responsibilities, while seeking to find the right balance between their professional obligations and the expectations of their political masters.
- To define a code of ethical conduct for public servants and to reduce ambiguity as to how best to perform their duties to provide independent advice to elected officials in the executive branch of GNL.

- To determine how the public service should best respond where the public service has to compete with other more innovative and responsive service providers, both in the rendering of policy advice and the conduct of public administration.
- To define the responsibility and accountability of public servants and board members in a rapidly changing environment.

I hope these recommendations will be of value to you as Consultant on the Independent Appointments Commission.

A short biography of the undersigned is attached. I am trained as an economist and spent 30 years as a senior executive in various departments and agencies of the Government of Newfoundland and Labrador. Respectfully yours,

David Vardy

May 17, 2023